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FR
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THE PREFACE.

THE Favourable Reception the *1ſt* and *2d* Editions of this *Collection* of *Sea Laws* and *Treatiſes* met with, has given the *Publiſhers* Encouragement to accompliſh this in a Method which will bring the Deſign nearer to Perfection: For they have added ſo many things to the former, that there remains but little to be contributed to go as far as the Subject will bear.

'Twas of abſolute Neceſſity to abridge the firſt, in ſome Part or other, to make room for thoſe Tracts which will be found in the *Appendix*; and no Part ſeem'd better to be ſpar'd, than the Diſcourſe of Property and Dominion in General, and ſome other things of great Length in the Beginning of that Book. But it being for the Glory and Intereſt of *England*, that His Majeſty's Rightful Title to the Dominion of our Seas, ſhould be prov'd and aſſerted, that Part has been preſerv'd, and the Argument confirm'd by other Authorities; which by Time the Undertakers had Opportunities to procure: Yet the whole is brought into little more than a third part of the Length of the firſt Diſcourſe, that Room may be made for what is added in the New *Appendix*, which will be of equal Uſe and Pleaſure; for there's Matter both to inſtruct ſuch as ſtand in need of Inſtruction in *Marine* Affairs, and to divert the Curious.

Beſides this, 'twas thought convenient to leave out the Propoſal concerning the more regular and eaſy way of *Manning the Navy*; becauſe it has been experienc'd, that in all ſuch Caſes the *Publick* is better pleas'd with *Projects* which have the Sanction of Authority, than ſuch as are only the Reflection of private Men, which however juſt and feazible, are too often rejected, rather thro' a mean Opinion of the Contriver, than of the Contrivance.

After having mention'd what is omitted, we ſhould take Notice of what is added; but before we come to it, 'twill be proper to ſpeak a little of what is preſerv'd, and how it is improv'd.

The *Rhodian* Laws were ſo well done, and the Books from whence they were copy'd ſo perfect, that nothing could be taken from them, or added to them, without doing 'em an Injury: But as to the Laws of *Oleron*, great Improvements have been made; the Undertakers having ſince the *Firſt* Edition was publiſh'd, met with a Book Entituled, *Les Us & Coutumes de la Mer*, The Uſages and Cuſtoms of the Sea, Printed at *Roan*, and Dedicated to the Firſt Preſident of the Parliament of *Normandy*: Wherein a correct Copy of thoſe Laws is inſerted; together with large Obſervations upon them: All which have been faithfully tranſlated into *Engliſh*, and will without doubt pleaſe and inform the Reader.

To theſe *Laws* of *Oleron* are added thoſe of *Wisbuy*, with a ſhort Account of the Riſe and Fall of that Trading City, once the moſt flouriſhing in the World. Theſe *Laws* were not in the firſt Edition; and as they are of great Importance for the Uſe of 'em in *Marine* Affairs, they will doubtleſs be acceptable to the Reader.

The *Hanſeatick* Laws are printed in that *Edition*, and are alſo in this, after having been carefully revis'd, and all Errors amended. To which Laws is now prefix'd,

a ſhort Hiſtory of the *Hanſe* Towns, their Commerce with *England*, and how they loſt it: Some uſeful Notes are ſubjoin'd to ſeveral of them, taken from the before-mention'd Treatiſe, printed by Authority in *France*.

After this follows, as in the Firſt *Edition*, a Diſcourſe of the *Juriſdiction of the Almiralty of* England. The *Naval Ordinances of* France, which have been inſtrumental in the Eſtabliſhing the Maritime Power of that Nation, ſo as to render it formidable to all others, the *Engliſh* and *Dutch* only excepted, who have indeed reduc'd it by a Superior Power, to ſuch a Condition, as to be no longer formidable to them. The Collection of *Modern Adjudg'd Caſes*, in Affairs relating to the *Sea*, with the Remarks of the Author, is continu'd, and what Miſtakes might have eſcap'd then, are now carefully corrected. The ſeveral Diſcourſes of *Owners and Maſters of Ships, and Mariners, as alſo of Reprizals, Pyracy*, &c. in that *Edition*, are preſerved in this: And the Chapter of *Reprizals and Pyracy* very much enlarg'd: The Act of Parliament for the Suppreſſion of *Pyracy* is inſerted as before; as alſo the whole Law of *Inſurances, Avaridges, and Bottomry*; the different ſorts of *Policies*, and other *Deeds*, and a Diſcourſe of *Wrecks*: Nor are the late Orders of Council concerning the Trade with *France* and *Spain*; and the Proclamation concerning the Signals to be obſerv'd between Merchant Ships and their Convoys, omitted.

As to what relates to Trials on Inſurances, the Court of *Admiralty* has claim'd Juriſdiction in them; but all Cauſes of that Nature are now try'd in the *King's Bench and Common Pleas Courts*.

The Collection of *Marine* Treaties comes afterwards in Courſe, as formerly; and contains the Treatiſes of that Nature between moſt of the Potentates of *Chriſtendom*. Next are ſeveral Forms of *Charter-Parties, Bills of Bottomry*, and other *Deeds* uſual among Merchants,

in the ſame Order as in the *Firſt* Edition: What was ſaid of the State of the Navy then, not exactly agreeing with what ſhould have been ſaid, all Omiſſions or Errors are amended, and as true a Liſt of the Admiralty, and alſo of the Fleet, as any extant, is continu'd; with the various Alterations which have ſince happen'd.

The Authors made uſe of by the Collectors of theſe Papers, are of the beſt Authority; for not to ſpeak of the Antients mention'd at large in Mr. *Selden*'s Excellent Treatiſe *de Mare clauſum*, his own Authority, Dr. *Godolphin*, *Molloy de Jure maritimo & navali*; in a word, every valuable Book on this Head has been ſearch'd into; as alſo ſeveral excellent Manuſcripts and Papers communicated to the Undertakers by Perſons of Judgment and Experience; nor were they themſelves unacquainted with theſe Affairs, but as well converſant in the Practice as in the Theory.

As to the *Additions* that have been made by the New *Appendix*, they in an eſpecial manner beſpeak the Favour of the Reader.

The firſt Sheets contain the *Opinions of the moſt Eminent Lawyers in King* Charles II. *Reign, in certain Caſes relating to Shipping*. 'Tis true, their Opinions are not deciſive in Law; but the very Names of the Lawyers who gave them, are enough to give them Authority every where out of the Courts in *Weſtminſter-Hall*, and to go a very great way even within it: For who is there that would not depend upon the Judgment of Sir *William Jones*, Serjeant *Ellis*, Serjeant *Stephens*, Sir *Robert Wiſeman*, the preſent Lord Chief Baron *Ward*, and the late Sir *Robert Sawyer*, as to Matters of Law? Wherefore it cannot be doubted, but all that ſhall ever have Occaſion to make Enquiries in any Caſes mention'd in this Appendix, will think their Advice of great Uſe, and ſet a Value on this Work for the Worth of thoſe that gave it. There's no room to ſuſpect the

Ge-

Genuineneſs of their Opinions, their own Hands being ready to be produc'd to vouch for them.

To this are added ſome very Curious *Memoirs* of a Gentleman ſo well known in the *Maritime* World, that were it permitted us to Name him, it would do an Honour to this Undertaking; but his Modeſty being equal to his Merit, we are oblig'd to conceal from the Publick, to whom it is indebted for *the Compariſon between the Land and Sea Service and Pay*, the Account of the *Uſage of the* French *ſick and wounded at Sea*, and a good Part of the *Eſſay concerning Naval Affairs*; which are all both uſeful and diverting, and will conſequently be as acceptable to Men of Buſineſs as to the Curious. The other part of the before-mention'd *Eſſay* was continu'd by another Hand out of Mr. *Pepys*'s and Mr. *Burchet*'s Memoirs, whoſe Characters are ſufficient to render every thing that's taken from their Writings, Authentick.

All the *Statutes* that have been made ſince the *Firſt* Edition relating to *Naval* Affairs, are inſerted as far at leaſt as they were to this Purpoſe; and nothing has been omitted that was thought neceſſary to render this Work as perfect as could be; eſpecially conſidering how backward People are to be aſſiſtant in publick Deſigns, wherein they have no immediate particular Advantage. Thro' the whole is intermix'd Variety of Reflections relating to Trade and Shipping, made by Perſons of Experience and Worth: Equally ſolid and new.

'Tis therefore to be hop'd, the World will be as grateful to the Labours of the Undertakers in this *Edition*, as they were in the *Firſt*; ſince as they did their utmoſt to make that worthy their Acceptance, ſo they have ſpar'd for neither Coſt nor Pains to improve this, which is left to the Candor of the Generous Reader; who will conſider, that in a Treatiſe of this Nature, he is to ſearch for Truth and Uſe, and not for Fancy and Eloquence.

This

The PREFACE.

This muſt be ſaid in Favour of the preſent *Edition*, that there's no Treatiſe in any Langage of *Europe* on this Subject, ſo Exact, ſo Extenſive, and withal ſo Curious. It cannot be thought the Publiſhers are vain in ſaying it, becauſe the greateſt part of the Work is borrow'd from *Records*, *Statutes*, or the *Writings* of Men of almoſt equal Authority; and it treats of Things ſo uſeful in themſelves, that if the Execution of the Deſign is tolerable, the Worth of it muſt give it a Place amongſt the moſt Valuable *Eſſays* that have been publiſh'd in our own or any other Tongue.

It will not be expected that we ſhould here enter into a *Diſſertation* on the Uſe and Benefits of *Trade* and *Shipping*. So much has been ſaid of it already elſewhere, that it is a Receiv'd Maxim among us, That *England* can never be Great or Safe, but by her *Fleets* and *Trade*; wherefore every Thing that tends to the Growth of either, muſt be uſeful in an extraordinary manner: How far good Laws and Uſages are neceſſary to it, will be imagin'd by every one who has Reaſon, and will make Uſe of it; and to him the Deſign of this Undertaking muſt be agreeable and commendable.

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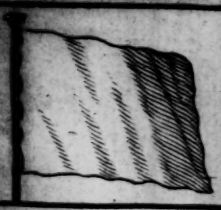
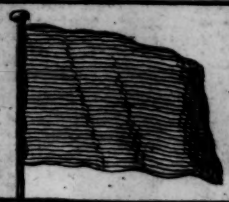
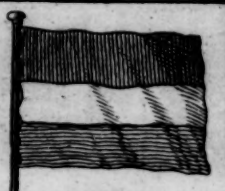
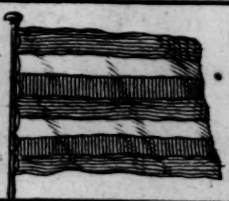
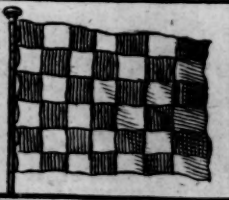
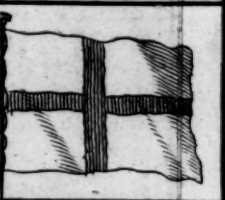
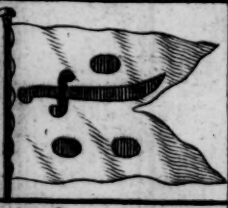
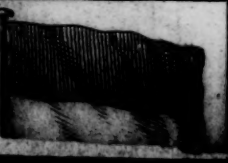
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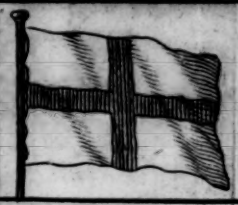
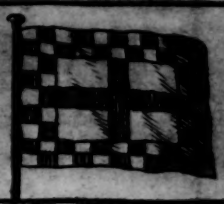
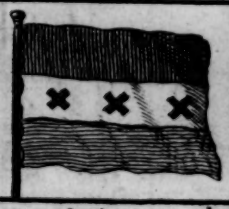
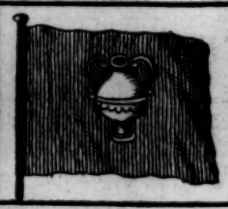
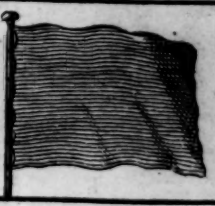
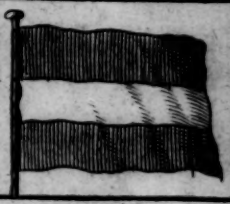
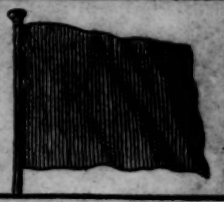
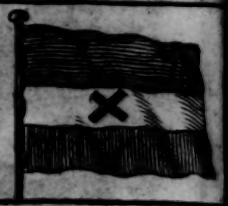
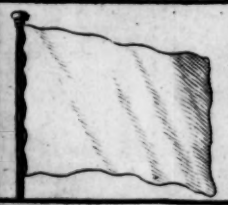
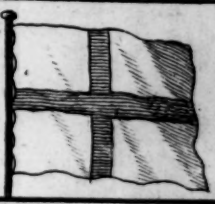
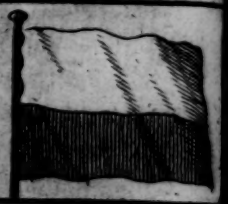
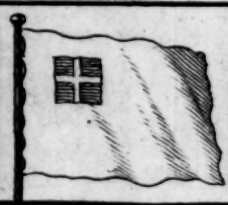
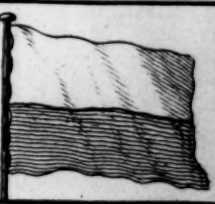
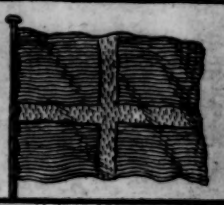
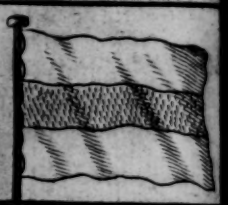
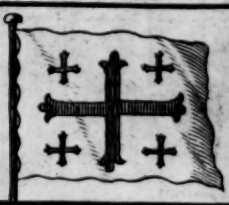
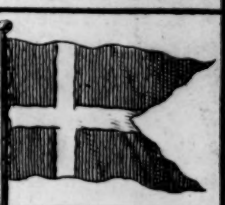
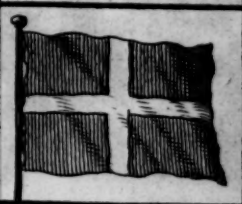
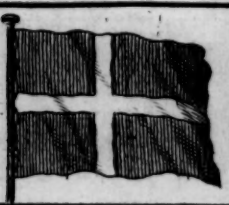
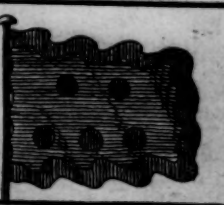
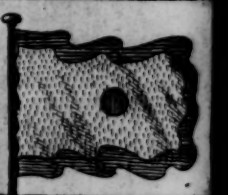
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A General VIEW of the FLAGS

Vice Admirall.	Rear Admirall.	English Ensign.	Vice Admirall.	Rear Admirall.	Flag of Defi
					
Scotch Union Flag.	Irish Ensign.	Hollands Jack.	Double Prince.	Hollands Ensign.	Amsterda
					
Ostend Ensign.	Ostend Fight.	Spanish Flag.	Biscays Ensign.	New England Ensign.	French Gally
					
Hamburgh.	Heylige land.	Middleburgh.	French Ships Standt.	Normandy.	French Co
					
Dantzick Ensign.	Bremen.	Rostock,	Genoa Ensign.	Malta.	Jerusale
					
Bengale Gt. Mogul.	Enchysen.	Legome.	Venice.	Popes Colours.	Savoy.
					
Anchonias Ensign.	Camphen Ensign.	Tunis.	Tripoly.	Algier.	Algier Col
					

Flag of Defiance.	S. George's Jack.	Budge Flag.	East India Comp:	Guiny Comp: Engl:	Scotch Ensign.
					
Amsterdam.	Flushing Jack.	Holland Sailing.	Holland Union Flag.	Spanish Venice and Genoa.	Czar of Moscovy.
					
French Gally Stand[d].	French Ensign.	Province.	Bretagny.	Zeland Colours.	Lubeck.
					
French Cornet.	Marseilles Ensign.	Picardy.	Sweeds Man of Warr.	Sweeds Merch[t].	Munick.
					
Jerusalem.	Tuhen.	Deans Man of Warr.	Deans Marchant.	Lunenburgh.	Sanat Grand Mogul.
					
Savoy.	Portugal Man of Warr.	Portugal Merchant.	Portugal Merchant	Amoy China.	Tunquin in China.
					
Algier Colours.	Tituan Colours.	Salley Colours.	Salley.	Moco Araba.	
					

OF THE

Dominion of the Sea

In GENERAL;

And of the

British SEAS

In PARTICULAR.

CHAP. I.

Of the Dominion of the Sea in General.

PRoperty and Dominion in general have been ſo often and ſo fully treated of by others, in Diſcourſes where they ſeem'd more natural and requiſite, that we ſhall ſay nothing of them here, farther than the Nature of this Treatiſe requires: For when we are making Digreſſions from our Subject, the *Sea*, we may, without the Offence of a Pun, be ſaid to be out of our Element; and therefore we ſhall proceed directly to the Buſineſs.

By the word Sea, according to the Genuine Signification, is underſtood the Ocean and Main Sea, as well as Gulfs and Inland Seas, ſuch as the *Mediterranean*, *Adriatick*, *Ægean*, *Britiſh* and *Baltick* Seas, which are more immediately ſubject to Dominion: For as to the Sovereignty of the vaſt Ocean, no Man can pretend to it, unleſs he was Lord of the Univerſe; and the Dominion of every Prince and State can extend no farther on the main Sea, than where it is reaſonable that his Neighbours ſhould begin, or where the particular Dominion is loſt in the Boundleſs Deep.

By Dominion is meant a Propriety or Right of uſing, enjoying, diſpoſing of, and freely alienating the thing ſo enjoy'd and poſſeſt. And this Dominion is of two ſorts; that which is common to all Men as Poſſeſſors without diſtinction, and that which is particular and peculiar to ſome, appointed and ſet apart by peculiar Perſons or States, ſo that all other Perſons are excluded from a Liberty of Uſe and Enjoyment, without the previous Conſent and Permiſſion of the Proprietor or Enjoyer. That the Land is ſubject to ſuch a Dominion is not doubted; but ſeveral have objected againſt the Dominion of the Sea. They ſay, the Nature of the Element will not admit of any ſuch Property, that being fluid, and conſequently ſubject to a continual Alteration by the Acceſſion of new Waves, which continually ſhift from one Place to another, the State of it is ſo abſolutely uncertain, and it remains ſo little the ſame in every reſpect, that 'tis hard to ſuppoſe any Part of it retainable in a particular Poſſeſſion; which naturally conſiſts in the Diſtinction of Limits, and they cannot conceive this poſſible in the Sea. To which it is anſwer'd, As God has ordain'd that the Land ſhould be Rul'd, Protected and Govern'd by Publick Power, ſo the ſame is appointed for the Sea, which cannot be alledg'd to be near ſo *fluid* as Rivers, the Property of which has been ſeldom, if ever, diſputed. If 'tis ſaid, Rivers being bounded on either ſide by Land, can admit of particular Dominion more eaſily than the Sea; this makes for our purpoſe, to prove the King of *Great Britain*'s Title to the Sovereignty of the *Britiſh* Seas; they being in a great Part bounded by Land. But to anſwer the above-mention'd Objection more generally; no reaſonable Man will deny, that tho' the Water is frequently ſhifted, the Channel or Space of Ground, over which it flows, continually remains the ſame. And when a Man is ſaid to Rule over a *Sea* or *River*, it is underſtood not of the Element, but of the *Site* where they are plac'd. The Waters of the *Britiſh* and *Adriatick Seas* continually run out, yet the *Sea* is the ſame; as the *Tyber*, *Po*, *Rhine*, *Thames*, or *Severn*, are the ſame Rivers as they were a Thou-

Thouſand Years ago: And this is what is ſubject to Princes by way of Protection and Government. Would it not ſeem ridiculous if any Man ſhould alledge, that the *Sea* ought to be left without Protection, ſo far that any one might do what he pleas'd there, well or ill, rob or ſpoil: Which alone argues, that the *Sea* ought to be govern'd by thoſe to whom it moſt properly appertains by Divine Diſpoſition. The Air is a much more fluid Element than the Water, and yet that Space, which is above any Piece of Land which any particular Perſon poſſeſſes, is ſo abſolutely the Propriety of the Owner, that he may lawfully hinder any Man from extending a Sconce, or any thing from any contiguous Building that may reach over his Ground, even tho' the Foundation of any ſuch Building be entirely upon the Ground of him who owns it. And if the Poſſeſſion of the Ground gives the Proprietor an unqueſtionable Title to the Dominion of the Air, the Poſſeſſion of the Channel of the Sea muſt ſufficiently entitle the Poſſeſſors to the Dominion of the Waters. As to their not being capable of Limits and Bounds on Account of their Fluidity, that's a frivolous Argument: For unleſs the Sea is ſuppos'd to be infinite, it muſt neceſſarily be bounded. And 'tis certain, the *Sea* and *Land* do ſo mutually embrace one another with Crooked Windings and Turnings, this by *Peninſula*'s and *Promontories*, and that by *Creeks* and *Gulfs*, that they both promiſcuouſly ſet Bounds to one another; and beſides, it has been bounded, as appears by the Memorable Bull of *Alexander* IV. in which he made the King of *Spain* the Prodigious Gift of the Weſtern World. The Bounds therein were on this ſide an Imaginary Line drawn from the *Artick* to the *Antartick* Pole; which Line was to be diſtant from each of the Iſlands call'd *de los Azores* and *Cape Verde*, 100 Leagues towards the Weſt and South: All that was Eaſtward fell to the Share of the *Portugueſe*, all that was Weſtward to the *Spaniards*. And by the help of ſuch imaginary Lines ſince the Uſe of the Compaſs, of *Iſlands*, *Rocks and Promontories* diſperſt up and down, Bounds may be eaſily fix'd, and the Extent of any Sea-Dominion ſettled. Others object againſt the particular Dominion of the Sea, that Freedom of Paſſage, Commerce and Traffick, is a Right ſo inherent to Mankind, that it can no where be abrogated or aboliſh'd by any Law or Cuſtom whatſoever; and that the Sea is like the High-way, common to all. To this we reply, 'Tis ſo, as much as other *High-ways* by *Land* or Great *Rivers* are; which tho' common and free, are not to be uſurp'd by private Perſons to their own entire Uſe, but remain to the Uſe of every one; not that their Freedom is ſuch that they ſhould be without the Protection and Government

See that Plea of Chiozzola *for the* Venetians *Sovereignty of the* Adriatick *Sea, at the end of Mr.* Seldon's Mare Clauſum.

of ſome Prince or Republick. For the true Enſign of Liberty and Freedom, is Protection from thoſe that maintain it in Liberty. As the *Sea* is capable of Protection and Government, ſo is the ſame, no leſs than the Land, ſubject to be divided among Men, and appropriated to Cities and Potentates, which long ſince was ordain'd of God as a Thing moſt Natural. Whence it was that *Ariſtotle* ſaid unto *Maritime Cities, the Sea is the Territory, becauſe from thence they receive their Suſtenance and Defence.* It would be a great Abſurdity to praiſe the Well Government and Defence of the *Land*, and to condemn that of the *Sea*; nor does it follow becauſe of the Vaſtneſs of the Sea, that it is not poſſible to be govern'd and protected. As to the *Community* of the *Sea* by Freedom of Paſſage, no body pretends an inoffenſive Paſſage ought or can in reaſon be deny'd to Travellers and Strangers at *Sea*. In as much as it has relation only to the Offices of Humanity, and where there is no Cauſe of Fear or Jealouſy; which Freedom of Paſſage does not in the leaſt derogate from the Dominion of the Place where ſuch Perſons are permitted to paſs: Becauſe the Paſſengers being allow'd that Liberty, not as having a legal Right and Title to it, but by Permiſſion, the permitting of another to participate of any thing, does not in the leaſt diveſt the Owner of his Propriety, or any ways diminiſh his Power over his own, eſpecially when he himſelf loſes nothing by it. All Paſſages through Foreign Countries, are (as they ever have been) ſubject to ſuch Limitations and Reſtrictions as the ſeveral Princes and Sovereigns of the Countries, through which Paſſage is deſired, think fit for the Welfare and Security of their own People, as well as of their Allies. The Right of the *Flag*, which is in the Crown of *Great Britain*, demands a Mark of Reſpect from all Ships paſſing in the *Britiſh* Sea, and is the Limitation and Reſtriction on which ſuch Paſſage is permitted. As to that part of the Objection which relates to the Liberty of Trade, it appears at firſt View ſo Trivial, that it needs no other Confutation but a flat Denial; as the Objectors give no other Reaſon but their bare Aſſertion: But to ſilence 'em at once, let us ſuppoſe that in Time of Peace *France* would exchange her Wines with *England*'s Wool, and the *Engliſh* not finding it conſiſtent with the Intereſt of the Nation to let the Wool be exported (as certainly it is not;) nor being willing to give the *French* Money for their Wines, ſince they can be abundantly ſupply'd with that Commodity from *Spain* and *Italy*, in Exchange for *Engliſh* Manufactures, ſhould refuſe any ſuch Commerce with *France* (as in effect they did all the laſt Peace) there being no Treaty in Force ingaging them to the contrary, the

Queſtion

Queſtion is, Whether *France* has any Right to compel *England* to Compliance with her Demand? Who is there that will not anſwer in the Negative, it being certain that every Nation in the World may conſent to or refuſe all Traffick with any other, as they think fit, except there has preceeded ſome Treaty or Compact to the contrary. Some who oppoſe the Dominion of the Sea, inſtead of Arguments pretend to produce Authorities againſt it, which we ſhall obſerve as far as they ſeem to have any Weight with them.

They tell us, *Antoninus Pius*, according to *Marcianus* the Lawyer, and *Juſtinian* in his *Inſtitutions*, declar'd, That by the Law of Nature, the *Air* as well as the *Rivers*, the Sea and its Shoars, ought to be common to all. Accordingly he allow'd the Fiſhermen of *Formia* and *Capena* (and all others in general) to fiſh upon the Shoar, with this Proviſion only, that they ſhould not meddle with Towns, Monuments and Buildings, which were not by any Law common to all. They alſo cite *Ulpian* againſt the Dominion of the Sea, as ſaying, *That the Sea being by Nature free for all, cannot be ſubjected by any peculiar Law or private Dominion*; and in another Place, *That the Sea and Shoars are common to all as the Air*, and that it is often declar'd by the Emperors, that none ſhould be deprived of the Liberty of Fiſhing. We are told alſo, that *Antoninus Pius* ſaid, Himſelf was *Lord of the World, but the Law of the Sea.* If the Opinion of ſome particular Perſons was of ſufficient Authority to build the Suppoſitions of the abſolute Community of the Sea upon, theſe Objections might be of ſome Force. But by inquiring diligently into the *Laws* and *Cuſtoms* of moſt Ages and Nations, we ſhall find the Matter to be quite otherwiſe, and to evidence it, in the Courſe of this Treatiſe, we ſhall inſtance ſeveral Nations that were ſucceſſively in Poſſeſſion of the Sovereignty of the Eaſtern Seas. As to the Teſtimony of *Ulpian*, let us make uſe of him himſelf againſt it: For he reckons the Revenues of Fiſheries (which are generally look'd upon to be part of the *Regalia* or Royalties of the Prince) among the Publick Cuſtoms, and places Fiſh-ponds among the other Poſſeſſions that are deem'd liable to pay Aſſeſſments. *Juſtinian*'s Laws, as excellent as they are, have ſuffered conſiderable Infractions and Alterations, and particularly in one relating to the *Marine.* For by his Laws, Ships driven by Tempeſt upon a Shoar, ſhould either belong to the former Owners, or as things relinquiſh'd and unpoſſeſt, become theirs who firſt ſhould find them; which good Law is confirm'd in the *German* Empire, but entirely alter'd by ſeveral other Nations, and among others by the

the *Engliſh*. In a Word, it is not to be ſuppos'd that *Juſtinian* meant by any Decree or Inſtitution of his, to forbid a particular Dominion of the Sea, ſince he appropriated the *Helleſpont* to himſelf, in ſuch a manner that the Liberty of that Sea, and the Ports there, coſt the Merchants and Mariners who frequented it, very dearly, according to *Procopius*, who was his Contemporary, and wrote his Hiſtory. The moſt conſiderable Authority the Objectors quote, is the anſwer of the Emperor *Antoninus Pius*, *That he himſelf was Lord of the Land, but the Law of the Sea.* This matter being put in a wrong Light, the Reader ſhould be inform'd of the Fact, which is this:

* *In the* Archipelago.

Eudemon Aſiaticus, a Native of *Nycomedia*, a City in *Bithynia*, having ſuffer'd Shipwrack in the *Ægean* Sea, and his Goods having been ſeiz'd by the Cuſtomers of the * *Cyclades* Iſlands, he repreſented to the Emperor *Antoninus*, how unjuſtly and cruelly theſe Cuſtom-houſe Officers had dealt by him, and petition'd him for Relief (according to *Voluſius Marcianus*, who was one of that Emperor's Privy Counſellors) in theſe Words, *Oh Emperor* Antoninus, *our Lord, We having been Shipwrack'd, were Robb'd of all by the Receivers of the Cuſtoms that inhabit the* Cyclades *Iſlands.* To which the Emperor made him the following Anſwer, *I indeed am Sovereign of the World, but the Law of the Sea: Let it be determin'd by the* Rhodian *Law, which is preſcrib'd for the Regulation of Sea Affairs; ſo far as it is not oppos'd by any of our Laws: For the Emperor* Auguſtus *was alſo of that Opinion.* The only Controverſy that ever was about the Reading of this Anſwer, is in relation to the Pointing of it, and particularly to the full Point or Period which is found after theſe Words, *but the Law of the Sea.* There being a full Point after the Words before-mentioned, the Objectors alledge, that the *But* implies, The Emperor indeed acknowledg'd himſelf to be Lord of the Land, but not of the Sea, and that the *Law* only, and no Man, was Lord of the latter: Whereas the true Senſe of this Anſwer ſeems to be, That Sea Affairs ought properly to be determin'd by the *Rhodian Law*, which was appointed to be the Rule in ſuch Caſes: For ſince the Emperor aſcrib'd to himſelf the Sovereignty of the whole World, he undoubtedly intended in that to comprehend the Sea; which as well as the Land, was ſubjected to his Authority, tho' in a different manner; Controverſies being always determin'd at Land by the *Roman Law* only, but *Marine* Affairs were decided according to the Sea Laws of the *Rhodians*, with this Reſtriction too, That the *Rhodian* Laws ſhould only take Place, when they did not oppoſe any *Roman* Law: Beſides, the Diſputes about the Reading of this

this Anſwer, *Joannes Ignatius*, and others, affirm, That the Emperor *Antoninus*, far from declining to aſcribe to himſelf a Dominion over the Sea, rather ſeems to intimate by this Anſwer, that he was Lord of it; alledging, that by theſe often recited Words, *I indeed am Sovereign of the Land, but the Law of the Sea*, he meant to ſay, I indeed am the Lord of the World, and I alſo am the Law of the Sea. With this agrees the Opinion of the Learned *Samuel Petit*, a *Frenchman*, who ſays, *Antoninus* does not here deny himſelf to be *Lord* of the *Sea*, ſo as to decline to give Law and do Juſtice to thoſe who frequent it; for, on the contrary, he orders the Controverſy between *Eudemon* and the Cuſtomers to be determin'd according to the *Rhodian* Law; by which *Law* however, he does not think himſelf ſo ty'd up as to be depriv'd of other means of relieving *Eudemon*; even againſt it, in caſe he ſhould ſuſtain any Injury by the *Rhodian* Law, which he plainly and poſitively makes ſubject to his own *Laws*. Monſieur *Petit* adds, he believes the *Greek* Word in the Petition (which was both made and anſwer'd in that Language) that ſignifies *Law*, has been by a Miſtake inſerted for another that has ſome Affinity to it in the Sound and Letters, and ſignifies Wind. So he makes the Emperor ſay, *I indeed am* Lord *of the Land*, but the *Wind* of the Sea. Whither the Fault is in the Pointing, or in the Conſtruction, 'tis very unlikely that *Antoninus* ſhould aſſert a thing contrary to the known Laws and Cuſtoms of all Ages, and his own Imperial Prerogative. As to the Cuſtoms of Nations, we ſhall inſtance ſeveral in the Sequel of this Diſcourſe. With which we proceed.

The Opinion of the Sovereignty of the Sea has been oppos'd by two very Learned Men; whom we may ſuppoſe to be ſet at Work by their ſeveral Maſters, and wrote to ſerve a particular Turn: The one is *Fernando Vaſquez*, Counſellor to *Philip* III. of *Spain*; the other, the famous *Hugo Grotius*. *Vaſquez* in his Diſcourſe of the Law of Nature and Nations writes to this purpoſe: *Their Opinion is not much to be eſteem'd, who imagine the* Genoeſe *or* Venetians *may forbid others a Paſſage through their reſpective Gulfs, as if they could lay Claim to thoſe Seas by Preſcription; which is equally contrary to the Imperial Laws, and to the Primitive Law of Nature and Nations, which cannot be ſubject to any Alteration. That it is againſt this Law is evident, becauſe by it, not only the Seas, but all other immoveable things whatſoever were in common: And tho' afterwards that Law came to be partly abodiſh'd, ſo far as it relates to the Dominion and Propriety of Lands, which being firſt enjoy'd in common according to the Law of Nature, were afterwards divided and ſeparated from common Uſe;*

yet

yet it is otherwiſe as to the Dominion of the Sea, which has been from the Beginning of the World, and is to this preſent Day common, without the leaſt alienation, as is univerſally known. And tho' I hear that many of the Portugueſe *are of Opinion, their King has acquir'd by Preſcription, ſuch an antient Right to the vaſt Ocean of the* Weſt-Indies, *that he may lawfully refuſe other Nations Paſſage through it; and the Vulgar ſort of* Spaniards *ſeem likewiſe to be of Opinion, that no People but themſelves have Right to Sail through that Vaſt and Spacious Sea that leads to the* Indies, *which the Kings of* Spain *have conquer'd, as if they alſo obtain'd a Right by Preſcription to them. Yet I look upon theſe Men's Imaginations as no leſs vain and fooliſh, than the Opinion of thoſe who have dream'd the ſame things of the* Genoeſe *and* Venetians. *The Law of Preſcription can be of no Force in deciding Controverſies which happen between Princes and People that acknowledge no Superior, becauſe the peculiar Civil Laws of any Country, are of no more Value in relation to Foreign Nations, than if ſuch Laws had never had a Being. So that for deciding Controverſies of that Nature, Recourſe muſt neceſſarily be had to the General Law of Nations originally or ſecondarily, which certainly can never admit of ſuch an Uſurpation of a Title to the Dominion of the Sea by Preſcription.*

The Reader by the Weakneſs of theſe Arguments, will have a Taſt of the reſt, and deſire no more of them. Notwithſtanding *Vaſquez* has the Character of a Great Man in the Learned World, he begins with a plain Contradiction; for after he ſays he holds the Law of Nature to be abſolutely unchangeable, which cannot be *ſubject to any Alteration*, he owns afterwards, that Law *came to be partly aboliſh'd*, &c. He acknowledges, that by the Law of Nature the Land was common at firſt, and it being evident that it is not now ſo, what ſhould hinder a private Dominion of the Sea, which according to himſelf was not more common in the Beginning, than the Land? For if he alledges that ſuch a Property over the Land is uſurp'd, as he ſays of that of the Sea, he overthrows all Property, and aboliſhes all Laws, both Divine and Humane; and, if on the contrary, he acknowledges ſuch a Dominion over the *Land* to be juſt (as certainly it is) why then ſhould he deny a Propriety of the *Sea*? The other Parts of his Diſcourſe are of the ſame ſtrength; and whereas he ſays the Sea has been from the Beginning of the World, and is to this Day common, as is univerſally known; 'tis ſo plain a Falſhood, that one would wonder a Man, who in other things is extoll'd for his Wiſdom and Sufficiency, ſhould aſſert a thing ſo contrary to the Laws and Cuſtoms of moſt Ages and Nations, as will be ſeen before we have gone through this Chapter.

Chapter. But Don *Vaſquez* was to pleaſe the Court of *Spain*, who were then in no good Terms with the Republick of *Venice*, whoſe Greatneſs at Sea hinder'd the *Spaniards* from being Maſters of the *Mediterranean*. The Senate aſſerted their Dominion in the *Adriatick* about the ſame Time, as may be ſeen in *Julius Paucius* Tract of the Dominion of the Sea, where we find enough to confute what *Vaſquez* ſays of the *Venetians*: 'Tis in the 2d *Book*, *Chap.* 6. In the Year 1630, *Mary*, Siſter to the King of *Spain*, being Marry'd to the Emperor's Son *Ferdinand*, King of *Hungary*, and the *Spaniards* deſigning to convey her from *Naples* with a Squadron of their own; the *Venetians* ſuſpected they intended ſome Infringement of their Privileges by this ſpecious Precedent, which they might perhaps afterwards pretend to make uſe of to their Prejudice, and thought they took this occaſion, when the Republick was involv'd in a War abroad, and infected with the Peſtilence at Home, to endeavour to undermine the Sovereignty of the *Adriatick* Sea, which had been un-interruptedly enjoy'd by the Signiory of *Venice*, by immemorial Preſcription. The *Spaniſh* Ambaſſador having acquainted the State, that his Maſter's Fleet was to tranſport his Siſter, the Queen of *Hungary*, from *Naples* to *Trieſti*, the Doge anſwer'd, *That her Majeſty ſhould not paſs, but in the Gallies of the Republick.* To which the Ambaſſador replying, *That they were infected with the Plague*, the Senate met to conſult about it, and came to the following Reſolution; That his Catholick Majeſty's Siſter ſhould not be tranſported to *Trieſti*, in any other Fleet but that of the Republick, according to the uſual Cuſtom of the Gulf, with which her Majeſty ſhould be attended with all the Marks of Reſpect and Deference that were due to her Quality; adding, that if her Majeſty proceeded any other way, the Republick would by Force aſſert her Rights, and attack the *Spaniſh* Gallies in an Hoſtile manner, as if they were Enemies. Upon which the *Spaniſh* Ambaſſador was oblig'd to deſire the Favour of the Senate to tranſport that Princeſs with their Gallies to *Trieſti*, which was accordingly perform'd by the *Venetian* General *Antonio Piſani*, and both the Emperor and King of *Spain* return'd the *Venetians* Thanks. Which is a plain Indication that they did not then call in queſtion the *Venetians* Title to the Dominion of the *Adriatick* Sea: Of which more will be ſaid in a more proper Place.

The moſt conſiderable Adverſary we have to deal with in this Controverſy, is *Hugo Grotius*, Author of the Celebrated Peice, entitul'd, *Mare Liberum*, which the Learned *Selden* fully anſwer'd in his *Mare Clauſum*. After the Treaty between the *Spaniards* and

Hollanders held at the *Hague* in the Year 1609. concerning Freedom of Trade and Navigation to the *East-Indies*, the above-mention'd Author publiſhed his Book, with an Intention to prove that the *Hollanders* had Liberty to Trade to the *East-Indies*; which he endeavoured to do by the Law of Nations, allowing ſuch a Liberty of Navigation to all Mankind, in which none can be moleſted without Injury. He aſſerted further, That the Right of Navigation thro' the *Atlantick* and *Southern* Sea to the *Indies*, cannot be the Propriety of the *Portugueſe*, or of any other Nation in particular; becauſe the Law of Nature not only permits, but requires, that that ſhould be common. The Learned Author of this Tract had certainly good reaſon to aſſert the *Hollanders* and other Nations Right to the Liberty of the *Atlantick* Ocean, and to Trade in the *Eaſtern* Seas as well as the *Portugueſe*: For who can ſay in the midſt of the vaſt Deep, ſuch a Channel or ſuch a Space is mine, and who has a Right to exclude any one a Paſſage through the *Main*? The Diſpute is brought within a narrower Compaſs, and by the Dominion of the Sea is only meant the Sovereignty of ſuch a part of it as bounding any Country, may be ſaid to belong to it, and to extend as far as certain Imaginary Lines or Viſible Marks. And herein *Grotius* agrees in ſome meaſure with us; when he ſays that ſuch ſmall Parts of the Sea as can in a manner be inclos'd, if they may be at all poſſeſt, ought to fall to them who firſt acquire a Title to them by Occupation. Now the Difference between a greater and a leſs Part, cannot well take Place in the determining of a private Dominion, ſince it is not the ſpace nor the extent of the Thing poſſeſs'd, but the Nature and Validity of the Title by which the Matter ſhould be decided. And the Author in another place, in expreſs Terms, excepts a Bay or Creek; and ſays elſewhere, he does not ſpeak of an Inland Sea, which being ſtreightned on either ſide, exceeds not the breadth even of a River, but the Ocean; which the Antients call'd immenſe and infinite, the Parent and Original of Things confining the Air, *&c.* He adds a little after, The Controverſy is not about a Streight or Creek in the Ocean, nor of ſo much as is in the View of the Shoar. And in other Places he ſays Things much to the ſame purpoſe; ſo that in the Diſpute about the Sovereignty of the *Britiſh* Sea, we ſhould have little to do with him; for he grants enough to warrant the Crown of *Great Britain*'s aſſerting its Dominion over it. He advances every Thing modeſtly, and the Main of his Argument tending to ſet free the *Atlantick* and *Southern Seas* from the Sovereignty the *Portugueſe* claim'd, he is in the main in the right: for 'tis impoſſible to poſſeſs the whole Ocean, or to have a Title to the

the Dominion of it, unleſs a Prince or People were Sovereigns of the whole World. *Alexander*'s Conqueſts gave him but a ſmall Sea-Dominion, about half the *Mediterranean*, and part of the *Indian* Sea. The *Romans* indeed had a Title to the Dominion of almoſt all the known part of the Great Ocean, as Lords of the Shoar. But there never was, and never will be a Power ſo infinite, as to ſubject the whole World, and to be Sovereign of both Sea and Land excluſive of all others. The Sea bounding the Land under the Subjection of any Prince, will be under his Dominion. *Grotius* in his excellent Treatiſe *de Jure Belli & Pacis*, ſays,* The Land and Rivers, and any part of the Sea that may fall under the private Dominion of any Nation, ought to be open to ſuch as have Occaſion to paſs upon juſt and neceſſary Grounds. And even a Creek or narrow Sea may be poſſeſt by any that poſſeſſes the Land on both ſides, provided that the ſpace of Sea be not ſo great, as being compar'd with the Land, it cannot ſeem to be any part of it. In a Word, he acknowledges the Right of Primary Occupation of Creeks and Streights of the Sea, at leaſt that 'twas not by Virtue of any Natural Right that the Sea was not appropriated and enter'd upon by Occupation, attributing the Community of it only to Cuſtom, and confeſſing that Cuſtom being chang'd, the Reaſon of the Community ceaſes. That it has been chang'd, is too well known to need any further Proofs of it againſt *Vaſquez*, and as much of *Grotius* as is againſt the Dominion of the Sea. We might bring many Authorities of the ſame Weight; but ſhall only take notice of two or three, as *Reginerus Sixtinus*, in his Book *de Regalibus*, where he ſays, the thing in queſtion concerning the Sea and its Shoar is, whether they ought, as Navigable Rivers, *&c.* to be reckon'd among the Regalia or Royalties of the Prince; every thing that is reputed ſuch, being as much the private and peculiar Right of the Prince, as the Subjects Eſtates are theirs. And ſo *Catheranus* Deciſ. 155. N°. 81. and *Ferrarius Montanus de Feud. Book* 5. *Chap.* 7. reckons the Sovereignty and Dominion of the Sea among the Royalties of the Prince, without making any Diſtinction between it and a publick River. And *Mynſingerus Auſ.* 1. N°. 162. *Decad.* 11. ſays, The Property of the Sea is a part of the Royalties of the Prince. But not to detain the Reader longer on this Head, we ſhall prove by Law and Hiſtory, Sacred and Profane, Ancient and Modern, that the Sea is capable of a private Dominion and Propriety.

* *Book* 11. *Ch.* 2. § 13. *Chap.* 3. § 8. *Ib.* § 29. *Ch.* 18. § 97.

Holy Writ, which is the beſt Authority that can be produc'd to warrant any Argument, in more than one Place, juſtifies ours; and let any out of Gallantry, or a worſe Cauſe, think we are driven to this Refuge, when we could not defend our ſelves by another.

'Tis too ſad a Truth, that the lewd Wit of the Moderns has often endeavoured to expoſe the ſacred Books to Contempt. But we addreſs our Diſcourſe to reaſonable Men, to Chriſtians, and are not at all ſolicitous for the Approbation of ſuch as will not approve of Truth it ſelf, which is only certain in the Scripture; and there we find it ſaid, *Repleniſh the Earth and ſubdue it, and have Dominion over the Fiſh of the Sea*, &c. And again, *The Fear of you, and the Dread of you* (which are Terms implying Dominion) *ſhall be upon every Beaſt of the Field, and every Fowl of the Air; upon all that moveth upon the Earth, and upon all the Fiſhes of the Sea*, &c. Which Words, tho' it muſt be acknowledg'd they are not meant of private Dominion, (ſince in the Perſon of our firſt Parents, and of *Noah* and his Three Sons, this Bleſſing was given to them and their Poſterity in general) yet 'tis by no means to be forgotten, that the Sea and Land did ſo paſs together at firſt into the common Enjoyment of Mankind, that from hence we may very reaſonably conclude, that being both in one Globe, there could be no ſuch Diverſity in their Nature, as might hinder the one more than the other to paſs at the Pleaſure of Men, in the future Diſtribution of things, into private Dominion and Poſſeſſion. Nor is there by that Donation any Community ordain'd. Mankind are left to their own Choice, to uſe and enjoy both *Sea* and *Land* as they think fit. To theſe Paſſages of Scripture, the Objectors oppoſe others, as, *The Heavens, even the Heavens are the Lord's, but the Earth hath he given to the Children of Men.* From which they pretend to infer, that there being no mention of the Sea, the Almighty reſerves that peculiarly to himſelf; which Explication is formally contradicted in ſeveral Places of the Holy Scriptures, and particularly in that above cited. They may as well ſay, God is not the Creator of the Sea, becauſe in the ſame Pſalm 'tis ſaid, *You are Bleſſed of the Lord, that made Heaven and Earth.* Who will deny but that the Pſalmiſt by the Word *Earth* means the World in general, which comprehends both Sea and Land? And both are equally poſſeſt by the Children of Men. Several other Texts of Scripture are quoted on both ſides in this Controverſy: But the Objectors find them as little to their purpoſe as that before recited out of the Pſalms.

Gen. 1. *V.* 28.

Ch. 9. *V.* 23.

Pſal. 115. *v.* 16.

We ſhall now give Inſtances of the private Dominion of the Sea, poſſeſt by ſeveral Nations, and firſt by the *Tyrians*, or,

Phœnicians. Who were the firſt known *Navigators*; and the Prophet *Ezekiel* does very plainly ſet forth their Sovereignty, *Then all the Princes of the Sea ſhall come down from their Thrones*, &c. *and they ſhall take up a Lamentation for thee. How art thou deſtroy'd*

Ch. 26. *V.* 16, 17.

that

that waſt inhabited of Sea-faring Men, the renowned City which waſt ſtrong in the Sea, ſhe and her Inhabitants, which cauſe their Terror to be upon all that haunt the Sea. Can any thing be more plain than the *Sovereignty meant* by the laſt Words; 'tis beyond doubt, and therefore we proceed. *Tyre* was a Town great in Strength and Riches by her Commerce, according to *Iſaiah*, *The Harveſt of the River is her Revenue*, than which nothing can be more expreſſive, nor more elegant: And again, ſpeaking ſtill of *Tyre*, *The Sea has ſpoken, even the Strength of the Sea.* Nothing can be more apparent, and no Authority ſo full and unexceptionable. 'Tis ſaid by the Pſalmiſt, *I will ſet his Hand alſo in the Sea, and his Right Hand in the Rivers.* By which, according to *Eben Ezra*, the Dominion of the Waters is aſſign'd to King *David*, that he might Rule over ſuch as ſail'd therein. There is alſo a clear and convincing Paſſage in Holy Writ, to our purpoſe. *And the King* Ahaſuerus *laid a Tribute upon the Land, and upon the Iſles of the Sea.* By which it appears very plainly, that that Prince was Lord of the *Sea* and *Iſlands*, upon which he impos'd a Tribute. There are ſome Apocryphal Texts which confirm what we aſſert, as that, *O ye Men, do not excel in Strength that bear Rule over the Sea and Land, and things in them: But yet the King is more Mighty; for he is Lord of all theſe things, and hath Dominion over them.* And that, *The Sea is ſet in a wide Place, that it might be Deep and Great; but in caſe the entrance were narrow, like that of a River, who then could enter the Sea to look upon it, and have Dominion over it, without paſſing through the Streight.* Whoever will give themſelves the Trouble to look over the Comments of the *Jewiſh* Rabbins, in the 34th Chapter of *Numbers*, where the Bounds of *Canaan* are ſet out, will find they are poſitively of Opinion, that the *Sea* is included.

Ch. 23. *V.* 3.

Verſe 4.

Pſ. 89. 25.

Eſther, Ch. 10. *V.* 1.

1 *Book of Eſdras, Chap.* 4.

2 *Book, Ch.* 7.

The Rabbi *Jehuda*, a Celebrated Interpreter of the *Law*, from the expreſs Words of the Holy Law concludes, that the whole *Sea* lying before the Weſtern Coaſt of the Holy Land, being limited by ſtreight Lines drawn on each ſide from the North Eaſt and South Borders, through that great Sea into the Weſt, having been, together with the main Land, given to that People by God, thoſe Precepts ſhould no leſs be obſerv'd in that immenſe Ocean, than in the Holy Land it ſelf, according as the Author's Opinion is deliver'd to us, in the moſt antient Digeſts of the *Jewiſh* Law, *de Libellis Divortij & Manumiſſionis*, Cap. 1. fol. 8. *All that lies directly oppoſite to the Land of* Iſrael, *is of the ſame Account with that Law, according as it is written, As for your Weſt Border* you ſhall even have the great Sea for a Border, this ſhall be your Weſt

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Border; *The Border of the Sea or of the West. Alſo the Iſlands ſituated on either ſide in the ſame direct Line, fell under the ſame Account with the ſides themſelves, ſo that a Line being drawn through the Iſles from* Cephaliora *to the main Ocean, and alſo from the River of* Egypt *to the Ocean, whatever is contain'd within that Line, is under the Dominion of* Iſrael; *and what lies without that Line, is out of its Dominion:* Which this Author Rabbi *Eben Ezra* and others, made to reach through even the *Spaniſh* Sea, notwithſtanding its vaſt diſtance from the Continent of the Land of *Iſrael.* Alledging by that Paſſage, where 'tis ſaid, *The Great Sea ſhall be thy Border*, 'twas meant, *The Great Sea which of it ſelf was their Border, ſhould alſo be their Poſſeſſion.*

This is perhaps to ſtretch the Sovereignty of the *Jews* too far; and other Rabbi's, by moderating their Explication of the *Law*, come nearer to the true Meaning. They would have a ſtreight Line drawn from the Promontory of Mount *Hor*, to the Entrance of *Peluſium*, or from the North Eaſt to the South, by which they would bound the Weſtern Dominion of the Holy Land, reckoning whatever ſpace of Sea or Iſland ſhould fall within the Compaſs of the ſaid Line towards the Eaſt, ſhould belong to the Territories of *Iſrael.* After this manner the ſaid Line would include very conſiderable ſpaces of the Sea, lying before the Shoar, inhabited by the Tribes of *Aſher*, *Ephraim*, *Dan*, *Zabulon* and *Simeon.* Which Sea was look'd upon to be the Property of that People, as well as the Land, according to the Digeſts of the *Jewiſh* Laws. Of theſe two Opinions of the Rabbins, this latter (by which only the adjacent Parts of the Sea are conceiv'd to be, by God's Appointment, aſſign'd with the Promis'd Land to the Children of *Iſrael)* is the moſt univerſally receiv'd, as is evident not only by both Volumes of the *Talmud*, but alſo by the Teſtimony of the moſt Learned Rabbins, *Moſes Maimonides* and *Moſes Cotzenſis.* And this latter Opinion ſerves directly our purpoſe, as well as the firſt: For we aſſert, *That the Sea is capable of Dominion*, and 'tis not the Extent, but the Nature of the thing that is here call'd in Queſtion.

Such are the Authorities we produce, and ſuch as have the Sanctions of Divine Inſpiration to confirm them. What need have we after this, to look into the Hiſtories of antient Times to prove a Truth eſtabliſh'd in Holy Writ; but for the Satisfaction of all Readers, let us enquire a little farther into this Controverſy, and we ſhall find that the Laws of Nature and Nations, do not in any manner oppoſe a private Dominion of the Sea, and that ſuch a Dominion was both the Practice and Opinion of the Antients.

By

By the Law, Civil and Domeſtick, as well as by the Common Law, whether Intervenient or Imperative, and by the moſt known Practice and Cuſtom of the moſt noble Nations and Kingdoms that are known to us, ſuch a Sovereignty and Dominion of the Sea, has been univerſally admitted. It muſt be allow'd, either that all theſe Mighty Nations, who either by Virtue of ſome Domeſtick Law of their own, or of ſome other Law common to themſelves and their Neighbours, have admitted of ſuch Dominion, are or have been Competent Judges of the Natural Permiſſive Law; or elſe it muſt be ſuppos'd, that the moſt Famous Nations of the World, have err'd for many Years againſt Nature, the Law of which, according to *Juſtinian*, is, *That which being eſtabliſh'd by Natural Reaſon amongſt all Men, is obſerv'd by all alike, and call'd the Law of Nations, becauſe 'tis ſuppos'd to be a Law which all Nations uſe*; ſee his Inſtitutions *de Jure Naturali*: With which Paſſage, that of *Caius* in his Book *de acquirendo rerum Dominio*, very well agrees: Where he ſays, *The Law of Nations is by Natural Reaſon obſerv'd in the ſame manner among all Men.* And that the *Dominion* of the *Sea* has been the *Law* and *Practice* of *Nations*, we are now to prove, from antient Hiſtory firſt, and then that it has been continued down to our own Times.

Tho' the Fable does not deſerve to be named with true Hiſtory, yet ſince the remembrance of the firſt of Times are only tranſmitted down to us in Fabulous Hiſtories, we muſt not omit taking ſome Notice even of that Age. We are told, the *Titans* being vanquiſh'd by the Brother Gods, *Jupiter*, *Pluto*, and *Neptune*, they ſhar'd by Lot the Dominion of the Univerſe among themſelves: *Heaven* fell to *Jupiter*, *Hell* to *Pluto*, and the *Sea* to *Neptune*. Theſe *Fancies* being exploded, let us ſee what ſome of the *Antients* have taught us by them.

They ſay, *Jupiter*, *Pluto* and *Neptune*, were not Gods but Men, not Kings of *Heaven*, but of the *Earth* and *Sea*. To *Jupiter* they aſcribe the Dominion of the Eaſt, where the Sun riſes and enlightens the World; from whence it was call'd *Heaven*: To *Pluto* they give the Kingdoms of the *Weſt*; which appearing to be lower, becauſe the Sun going down there, leaves the World in *Darkneſs*, it takes thence the Denomination of *Hell*: And to *Neptune* they allot the *Sovereignty* of the *Sea*, and of the *Iſlands*. *Lactantius*, in his Treatiſe *de Falſa Religione*, writes thus of this Diviſion of the World: *Concerning the Dominion of* Neptune, *'tis evident that 'twas much like that unlimited Command, which by a Decree of the* Roman *Senate, was given to* Cneius Pompeius, *who by it had Authority over the Sea and all its Coaſts, from whence he was*

to

to baniſh Pyrates. And that the Dominion of the Sea fell much in the ſame manner to Neptune, *may be gather'd out of Antient Hiſtory. Witneſs* Euhemerus, *a very old Hiſtorian of* Meſſina, *who having diligently collected the Affairs and Actions of* Jupiter *and others, that were imagin'd by the Heathens to be Gods, compil'd a Hiſtory of the ſacred Titles and Inſcriptions which were found in the Antient Temples, eſpecially in that of* Jupiter Triphilia, *where he himſelf had plac'd a Golden Pillar, upon which he writ the Hiſtory of his Actions. And in this Hiſtory of* Euhemerus, *tranſlated and follow'd by* Ennius, *we find theſe Words,*

Jupiter grants the Dominion of the Sea to *Neptune*, that he may Reign over all the Iſlands and Places near it.

Tho' the Hiſtory of *Euhemerus*, and the Tranſlation of *Ennius* are both loſt, that misfortune may very reaſonably be attributed to the Chief Prieſts of *Jupiter*, and the other Heathen Divinities, who being jealous that the World ſhould diſcover the Gods who were ador'd in their Temples, were not really ſuch as they had repreſented them to be, their Reputation would ſuffer, and the People ceaſe paying them Worſhip. *Clemens Alexandrinus*, *Euſebius*, *Auguſtine*, *Arnobius*, and others, ſpeak of this *Euhemerus* as a valuable Author: But the ſhorteſt way to prove that the Sea is capable of *Dominion*, is to give Inſtances of the Nations, Antient and Modern, who have had *Dominion* over it. We ſhall therefore begin with

Cretans. The Inhabitants of the Iſland of *Crete*, now called *Candia*, has a very large *Dominion* in the Neighbouring *Seas*, as appears in the *Lib.* 1. Writings of *Diodorus Siculus*, and others, particularly *Thucydides*, who tells us, when they acquir'd this Dominion, *Minos* the Son of *Lycaſtus*, Son of *Jupiter*, King of *Crete*, poſſeſs'd all the *Cretan*, and a great part of the *Egean Sea*, as *Sovereign* Lord of it. *Book* 6. And according to *Eutropius*, the *Empire* of the *Cretans* over that part of the *Sea*, did not expire till *Cæcilius Metellus* made an en- *De Leg. lib.* 1. tire Conqueſt of that Iſland. We may ſee by *Plato*'s Works, that the *Sea Laws* of the *Cretans* were attributed to *Minos*. This *Dominion* of the *Cretans* is ſuppos'd to be in the Time of the Judges, and to have laſted till that of the *Lydians*, which began 175 Years afterwards. Theſe

Lydians,

Lydians,

According to *Euſebius*, held this *Dominion* 92 Years; but *Iſaac Cauſabon* was of Opinion, that XCII. was by a Miſtake inſerted in the Greek for CXX. *Marianus Scotus* and *Florence* the Monk, both make mention of the *Dominion* of the *Lydians*, which is generally reckon'd to have begun about the Time of *Æneas*. Their Succeſſors in it were the

Pelaſgi,

Of whom *Euſebius* ſays, *They in the ſecond place poſſeſt the Dominion of the Sea*, which is meant excluſively of the *Cretans*, who were not in his Catalogue; and tho' this Author makes their *Dominion* to laſt 85 Years, 'tis conjectur'd it did not laſt above 55. The Time of it is plac'd in the Days of *Solomon*. And after them the

Thracians,

Held the Dominion of the Sea, which began in *Jeroboam*'s Reign: But Authors do not agree how long it laſted. We now come to the

Rhodians;

Who tho' they are omitted by *Marianus* and *Florentius*, according to *Euſebius*, held the Dominion of the Sea 23 Years, beginning about the Reign of *Jehoſaphat*. *Strabo* in his fourth Book ſays, That *Rhodes* was *Sovereign* Miſtreſs of the *Sea* a conſiderable Time. They indeed have render'd their Name and Sovereignty immortal by their *Sea Laws*; which, as *Conſtantius Hermenopulus* affirms, in his *Prochir. Juris*, *lib.* 12. *Tit.* 11. are the moſt ancient now in being, and were in Force among the *Romans*, from the Time of *Tiberius*, as you may ſee in *Jus Græco Romanum*, Tom. 2. p. 265. The Paſſage before-mention'd, in the Emperor *Antoninus*'s Anſwer to *Eudæmon*'s Petition, confirms this; and 'tis certain the Emperor *Juſtinian* put thoſe Laws into the *Digeſts*. Next to them the

Phrygians

Acquir'd the *Dominion* of the *Sea*, as 'tis ſuppos'd in the Time of *Lycurgus*. *Euſebius* writes they maintain'd it 25 Years; others ſay 26, and then the

Cyprians

Poſſeſt it. Some Authors ſay, they maintain'd it 23 Years, and others 31 Years. The Time is ſaid to be in the Reign of *Joas*. The

Phænicians

Held this *Dominion* in the Days of *Uzziah*, King of *Judah*: From them all the Bottom of the *Mediterranean* was call'd the *Phænician Sea*; and *Pliny* tells us, That People were very skilful in the Art of *Navigation*, inſomuch, that *Atergatis*, Queen of *Syria* and *Phænicia*, publiſh'd an Edict, importing, *That it ſhould not be lawful for any one to eat Fiſh without her Licence and Permiſſion.* It afterwards became Cuſtomary to conſecrate to *Atergatis*, Fiſhes of Gold and Silver, when ſhe was plac'd among the Goddeſſes. After the *Phænicians* the

Ægyptians,

As we find in *Euſebius*, *Marianus* and *Florence* the Monk, were *Sovereigns* of the *Sea*, under their Kings *Pſamnitis* and *Bocchoris*, who flouriſh'd a little before the beginning of the *Olympiads*. Next to them the

Mileſians

Held this Dominion: And tho' *Euſebius* takes no notice of the Time they enjoy'd it, *Marianus* and *Florence* agree their Dominion laſted 18 Years. *Stephanus* alſo obſerves, *That* Naucratis, *a City of* Egypt, *was built by the* Mileſians, *who then poſſeſt the Sea*. *Euſebius* adds, their *Sovereignty* was about the Time of *Romulus*. They alſo built *Sinope* on the *Euxine* Sea, which according to *Strabo*, in his 12th Book, commanded the *Sea* flowing within the *Cyanean* Iſlands. The

Ca-

Carians,

As *Euſebius* remarks, Numb. 1281. and *Diodorus Siculus*, Biblioth. 5. enjoy'd a *Dominion* in the Sea, about the Time of the good King *Hezekiah*, as did afterwards the

Lesbians.

See *Euſebius*, Numb. 1341. Their *Dominion*, according to ſome Authors, laſted 69 Years; but *Marianus* makes it laſt but 58 Years. The

Phocians

Succeeded them in the *Dominion* of the *Sea*, about the Time of the *Jews* Captivity at *Babylon*; and *Euſebius* writes, that they maintain'd it 44 Years. The

Corinthians

Were alſo *Sovereigns* of the *Sea*, tho' they are omitted in the Catalogues of the Hiſtorians. However, *Thucydides*, lib. 1. reports, that being very potent in Shipping, and mightily ſuppreſſing Pyracies, they acquir'd a very great Reputation and Command by *Sea* as well as by *Land*. He takes notice alſo of their Diligence and Succeſs in reſtoring the Affairs of *Navigation* to their former Perfection. It muſt nevertheleſs be confeſs'd, that Authors have been too ſilent with reſpect to them; and the

Ionians,

Whoſe *Dominion* of the *Sea* is taken notice of by the ſame Hiſtorian, in Words to this Effect, *The Power and Strength of Navigation were in the Hands of the* Ionians, *in the Time of* Cyrus *the Firſt King of the* Perſians, *and his Son* Cambyſes. The

Naxians

Enjoy'd this Maritime Sovereignty after them, during the ſpace of 10 Years, in the Reign of *Cambyſes* and *Darius*. They inhabited the Iſland *Naxos*, one of the *Cyclades* in the *Archipelago*. After them the

Eretrians

Poſſeſt the Dominion of the Sea for about 7 Years. They were ſo call'd from *Eretrias*, a rich and famous City in the Iſland *Euboea*. The next *Maſters* of the *Sea* were the

Æginetæ:

They were the Inhabitants of the Iſland *Egina*; and not long before the *Peloponeſian* War broke out, were ſo ſtrong at Sea, that they inſulted the *Athenians*; and 'twas to curb them that the *State* of *Athens* encreas'd their *Naval* Strength, by which they afterwards acquir'd the *Sovereignty* of the *Eaſtern Sea*. Not only *Euſebius*, but *Strabo* and *Ælian* take notice of the Dominion of this People; ſome make it laſt 10, ſome 20 Years, and ſome more: But the *Athenians* were too great a Nation, to ſuffer ſo inconſiderable a People, as the *Æginetæ* were, to enjoy this Power long. After them the

Athenians and *Lacedæmonians*

Enjoyed this Sovereignty, tho' they are not inſerted in the Catalogue of the Lords of the Sea. *Demoſthenes*, in his 111. Phil. ſays, The *Lacedæmonians* had a *Dominion over the Sea and over the Land*, and who does not know that *Eurybiades* the *Spartan*, commanded the *Grecian* Fleet, in the War between the *Grecians* and *Xerxes*. 'Tis true, the *Lacedæmonians* were not ſo ſtrong by their own *Naval* Strength, as by that of their Allies the *Peloponeſians*; but their *Dominion* at *Land*, was the occaſion of their being preferr'd to the *Dominion* at *Sea*; and they always had the Chief Command, till the Famous *Timotheus*, an *Athenian* General, having ſubdu'd *Corcyra*, brought the People of *Epirus*, the *Athamanians*, *Chaonians*, and other Nations, to enter into an Alliance with them. Upon which the *Lacedæmonians* found themſelves under an indiſpenſible Neceſſity to reſign the *Sovereignty* of the *Sea* to the *Athenians*, in a Treaty of Peace then concluded between the two Nations. The *Lacedæmonians* were not allow'd to put to Sea ſo much as one Ship of Force, but Ships of Burthen only; and the *Athenians* oblig'd *Artaxerxes Longimannus*, King of *Perſia*, to agree, *That the King's Ships ſhould not come within the Length of a Horſe Race of the* Grecian *Sea, and that it ſhould not be lawful for* him *to ſend any Ships of Force within the* Cyanean *and* Chelidonian *Iſlands*,

Islands, which formerly had been infested by his Navies; as may be seen in *Plutarch*'s Life of *Cimon* the *Athenian*. Indeed the *Greek* History is full of Instances of the *Power* and *Dominion* of the *Athenians* at *Sea*. *Isocrates* speaking of it, tells us, *It was not lawful to sail in long Ships or Gallies beyond* Phaselis, a Town situated in a direct Line with the *Chelidonian* Islands. This *Dominion* was entirely lost in the end of the *Peloponesian* War, when *Lysander* destroy'd their Fleet, and took *Athens*. And they never recover'd it so far as to be said to be *Masters* of the *Sea* afterwards, tho' they grew powerful again. If any should be curious to know how these Catalogues of the Maritime Sovereigns have been preserv'd, we can only inform them, that 'tis very probable *Castor Rhodius*, who lived about the Time of *Augustus Cæsar*, and wrote a History of those that had rul'd at *Sea*, as *Suidas* witnesses, furnish'd *Julius Africanus* and *Eusebius* with these Lists of the Nations who held *Dominion* at *Sea*, tho' *Castor*'s History is it self lost. To continue, as far as we can trace this *Dominion* of the *Sea* after the *Athenians* lost it, there were not above 70 Years between the *Peloponesian* War, and the Reign of *Alexander* the Great. When the *Tyrians*, according to *Quintius Curtius*, *had not only a Sovereign Dominion over the Neighbouring Sea*; *but was Mistress over all the Seas through which their Ships did sail*. Before this we find by the *Greek* Histories, that the *Lacedæmonians* were again *Masters* at *Sea*, and the *Bœotians* aspir'd to it, if they did not obtain it after their Successes at Land. But the *Tyrians* were such absolute Masters, *Tyria Maria*, or *Tyrian* Seas, became a Proverbial Expression for all Seas possest, so as the Passage through them could not be obtain'd without the Permission of the Lord.

We find a Query in *Aristotle*'s Works, Whether it be for or against the Interest of any well govern'd Nation, to maintain a *Sovereignty* of the *Sea*, so as to exclude all others from the Benefit of *Navigation* through the Part so possest, either upon account of Passage, Traffick or Fishing, *&c.* But he had been too well instructed of the Lawfulness of such a Dominion, by the continual Practice of all the Neighbouring Nations, to declare against it. Tho' the many Instances that have been given of the *Sovereignty* of the *Sea* from antient History, are sufficient to convince any reasonable Man, that it is capable of Dominion; yet we shall add some further Arguments to prove our Assertions.

'Tis very well known by all who are acquainted with the Histories of antient Times, that according to the Custom of the *East*, the *Symbols* of *Dominion* and *Empire*, which the Kings of *Persia* demanded of the *Greeks* and other Nations, were *Earth* and *Water*,

by

by which was undoubtedly meant the Empire of the *Sea* as well as the *Land*. *Darius* demanded *Earth* and *Water* of the *Athenians* and *Lacedæmonians*, who threw his Ambaſſadors into a Well. He alſo demanded it of *Indathyrſus* King of *Scythia*, as we find in *Herodotus*, and in the *Greek* Copies of the Hiſtory of *Judith*; that *Cap.* 11. *V.* 7. *Nebuchadnezzar* requir'd *Earth* and *Water* of the Neighbouring Nations with which he threatned to make War. Several Parts of the *Sea* belonging to the *Eaſtern* Empire, were reckon'd among its Provinces and Governments. Witneſs *Conſtantius Porphyrogennetus*, Lib. 1. Them. 17. where he ſays, *That the* Helleſpont *was very expreſly aſſign'd to the Commander in Chief of the* Ægean *Sea.* And again, *That the* Ægean *Sea was reckon'd among the Provinces of the Empire, and that the* Cyclades *Iſlands, and the moſt remarkable of the* Sporades, Mytelene *and* Chios, *belong'd to the Government of the* Ægean *Sea.* The Emperor *Leo* by a Decree declar'd, *That every Man ſhould poſſeſs the Sea lying before his Lands, by ſuch a peculiar and unqueſtionable Right, that he ſhould have Power to deprive any other Perſon of uſing and enjoying the ſame in any manner, ſo as to reap any Gain or Benefit, without the ſpecial Conſent of the Owner.*

By which the Opinion of the Univerſal *Community* of the *Sea* is utterly deſtroy'd, and a private and ſeparate Propriety and *Dominion* introduc'd. This Decree took immediate Effect, about the Year of our Lord 900, without any oppoſition, over all the *Ægean* Sea, as well as over the *Boſphorus*, *Helleſpont*, and all the other *Seas* ſubjected to the *Conſtantinopolitan* Empire.

We have hitherto confin'd our ſelves to the *Levant* or *Eaſtern* Part of the *Mediterranean*; let us now ſee how the *Dominion* of the Sea was maintain'd in the *Weſtern*. Where firſt we find the

Spinetans,

So call'd from the antient City *Spina*, ſituated near the Mouth of the River *Po*, in Poſſeſſion of the Sovereignty of the *Adriatick* Sea; where, as we read in *Strabo*, Lib. 5. and *Dionyſius Halicarnaſſæus*, de Orig. Rom. Lib. 1. They rais'd ſuch conſiderable Revenues, that they us'd to ſend very liberal *Tenths* to the *Temple* of *Apollo* at *Delphos*. The ſame Author adds, that the

Tuſ-

Tuſcans

Were abſolute *Sovereigns* of that part of the *Mediterranean* that waſhes the *Southern* Coaſt of *Italy*. And *Diodorus Siculus*, Lib. 20. ſays, The *Thyrreni* or *Tuſcans* were ſo powerful upon the Sea, which they poſſeſt, as *Lords* of it, that at laſt it took their Name. But the

Carthaginians

Grew ſo mighty at Sea, that all other *Naval* Dominion ceas'd, and none could pretend to diſpute with them the Maritime Empire, till the Reign of *Agathocles* King of *Sicily*, who ſhar'd for ſome time with them the *Sovereignty* of the *Sea*. His Subjects in *Africa* revolting from him about the 118th Olympiad, the Dominion of the *Mediterranean* devolv'd almoſt entirely upon the *Carthaginians*, who held it near 40 Years, and gave Laws to all *Navigators* till the beginning of the firſt *Punick* War, when the *Romans* refus'd any longer Subjection to them at *Sea*. Before this the People of *Rome*, notwithſtanding they had extended their Conqueſts very far at *Land*, gave up the *Sovereignty* of the *Sea* to the *Carthaginians*, as we may ſee by the firſt League concluded between theſe two Mighty States, about the 68th Olympiad. By which *Polybius* tells us 'twas ſtipulated, *That neither the* Romans, *nor their Confederates ſhould ſail beyond the* fair *Promontory*, *unleſs they ſhould be driven thither by Tempeſts or Enemies*. And *Polybius* farther gives an Account, That in the ſecond Treaty of Peace concluded between the two Nations, it was provided, *That no* Roman *ſhould ſo much as touch either upon* Africa *or* Sardinia, *except it were either to take in Proviſions, or repair their Ships*. But after the ſecond *Punick* War, when *Carthage* was forc'd to ſubmit to what *Laws* the *Romans*, their Conquerors, pleas'd to give them, when the *Roman* Fleet was alſo Victorious at *Sea*, as well as *Scipio* by *Land*, the *Dominion* the *Carthaginians* held at Sea, was of Courſe transferr'd to the People of *Rome*, and indeed they became *Maſters* of the *Mediterranean* before they were *Maſters* of *Carthage*; ſo Induſtrious had they been to encreaſe their *Naval* Strength, without which they ſaw they could never ſubdue their Rivals the *Carthaginians*: For *Hannibal* in his Speech to *Scipio*, in the 30th Book of *Livy*, ſeems to acknowledge the *Romans* to be *Lords* of all the *Mediterranean*, and its Iſlands. And accordingly after the Concluſion of the Peace, at the end of the ſecond

Pu-

Punick War, the *Carthaginians* themſelves burnt 500 Gallies, that they might not be obliged to pay Homage to their Conquerors, of whom they had formerly exacted the ſame Marks of Submiſſion. The

Romans

Having thus acquir'd the *Dominion* of the *Sea*, were very careful to maintain it, and had always a powerful Fleet ready, either to ſuppreſs Pyrates, or aſſert their *Sovereignty*.

The Fleet that was given to *Pompey* to ſcowr the *Mediterranean* Seas, is mention'd by all the *Roman* Hiſtorians; and *Pliny* tells us, that by freeing the Sea from Pyrates, he reſtor'd the *Dominion* to the People of *Rome*. He alſo made them Maſters of that part of the Sea, to the *Sovereignty* of which the *Cilicians* pretended, as appears by an antient League between them and *Antiochus* King of *Syria*, *That the latter ſhould ſurrender his Warlike Ships, and their Furniture, except* 10 *Gallies, none of which ſhould be Rowed with above* 30 *Oars*; and *Polybius* ſays, *'twas not allowable for him to have ſo much as one with that Number of Oars; and that none of his Ships ſhould paſs the Promontory of* Sarpedon, *unleſs it were to carry Money or Hoſtages.*

Nat. Hiſt. Lib. 7. *Cap.* 26.

As to the Nature of the *Sea-Dominion* of the *Romans*, and the Extent of it, *Appianus Alexandrinus* makes them *Sovereigns* of all the *Mediterranean*, and *Dionyſius Halicarnaſſæus*, lib. 1. de Orig. Rom. writes, their *Dominion* extended over the *whole Ocean as far as 'tis Navigable.* However extravagant this Boundleſs Empire may appear at firſt, 'twill not at a ſecond View ſeem improbable, that the *Romans* were *Sovereigns* of moſt part of the known *Seas*, as they were of the *Land*. For we ſhall ſhew in a due Place, that the *Sovereignty* of the *Britiſh* Seas were in their Poſſeſſion, as long as they were *Maſters* of any conſiderable part of *Britain*; but that they look'd on the *Mediterranean* to be entirely their Property, appears by ſeveral Paſſages of *Florus*, *Saluſt*, and other Authors, who being *Romans*, gave ordinarily to that Sea the general Name of *Our Sea*. Their Naval *Dominion* may be prov'd by ſo many Examples, that we ſhould tire the Reader to repeat them, and the *Eaſtern* Emperors pretended to the ſame Maritime *Sovereignty*, as the People or *Cæſars* of *Rome* enjoy'd. *Themiſtius*, in his 5th Oration, ſpeaking of the Emperor *Theodoſius* the Elder, aſcribes to him the *Dominion* of almoſt the whole *Earth* and *Sea*, of which he calls him *Ruler*. *Dion Chryſoſtom* tells us, the Emperor *Trajan*, long before this, granted the Citizens of *Tharſus*,

a

a *Dominion* and *Juriſdiction* over the *River Cydnus*, and the adjacent *Sea*.

Thus much is ſufficient to ſhew, that the Antients believ'd and practis'd the *Dominion* of the *Sea*. When the *Barbarians* over-ran the Empire, the *Roman* Power was broken as well at *Sea* as at *Land*; and as their Territories fell under the *Dominion* of ſeveral Princes, ſo their *Naval* Force was divided, *Navigation* neglected, Barbariſm prevail'd, and with that, Ignorance; and Commerce growing dangerous, Fleets grew leſs, and the *Sovereignty* of the *Sea* was not talk'd of again, till there aroſe a Power able to maintain, as well as aſſert it. The firſt of this kind was that of the

Venetians,

Who claim'd the Sovereignty of the *Adriatick* Sea, formerly ſo call'd from the Antient City of *Adria*. At the Bottom of this Sea, Bay or Gulf, ſtands the Famous City of *Venice*, govern'd by a Republick that, from the Beginning, have made it one of their Chief Political Maxims to encourage *Trade*, and improve their Strength at *Sea*. This Bay is 600 Miles long, and the *Land* on both ſides poſſeſt by ſeveral Princes; inſomuch that a 6th part of it does not belong to the *Venetians*; yet by their promoting *Commerce* they grew formidable at *Sea*, aſſerted their *Dominion* over the *Gulf*, as belonging to their City, the Capital of thoſe Parts, and for ſome Time there was no Nation that durſt diſpute the *Sovereignty* with them. *Flavius Blondus*, Decade 2. Lib. 8. tells us, *That in the Year* 1265. *when* Lorenzo Tepolo *was Doge of* Venice, *the Republick impos'd a Tax upon all that Traded in the* Adriatick *Sea, making a Law (which to this Day remains in Force)* that all who ſail'd between the Gulf *de Quevera*, and the *Capo di Pola*, or Promontory of *Solo* and Coaſt of *Ravenna*, ſhou'd (if thereto requir'd) come into *Venice* and pay Cuſtom, and (if the Officers thought fit) unlade their Goods, and let them be ſurvey'd. Several Barks were order'd to Cruiſe Day and Night about the Harbours, to enforce the Execution of this Law. The Inhabitants of *Ancona* complaining to the Pope of this Exaction, the Caſe came to be conſider'd, and *Gregory* X. confirm'd to them the Right of Levying their Cuſtoms in the *Adriatick*, for the Maintenance of Mariners employ'd by them againſt the *Saracens* and Pyrates. The Ceremony of the *Doge*'s Wedding the *Adriatick* Sea, is much older, and ſhews their *Sovereignty* is as old as *Alexander* III. by whom 'twas inſtituted, according to *Anton. Peregrin.* in his 8th Book *de Jure Fiſci*, §. 18. This Ceremony is perform'd on Aſcenſion-

Day, when the *Doge* goes in his *Bucentoro*, a magnificent Galley of State, accompany'd by the Chief Noblemen, in a moſt Pompous manner, and as a Sign of the Perpetuity of the *Republick's Dominion* over it, throws a Ring into the Water, in Token of Wedding it; ſaying theſe Words, as we have tranſlated them out of *Italian*,

We Eſpouſe Thee, O Sea, in ſign of a Real and Perpetual Dominion.

But the Proofs of the *Republick's* aſſerting this *Severeignty*, are ſo many, they would be almoſt endleſs, ſhould we come to Inſtances: We therefore refer the Curious to a Treatiſe written by way of Epiſtle from *Franciſcus de Ingenuis* to *Liberius Vincentius*, in Vindication of it, againſt *Joannis Baptiſta Valenzolo*, a *Spaniard*, and *Laurentius Motinus*, a *Roman*, who being the Duke of *Oſſuna's* Creatures, wrote againſt it to pleaſe that Duke, then Viceroy of *Naples*, and a great Enemy of the *Republick*. In this Epiſtle the Author reckons no leſs than 30 Eminent Lawyers of his Opinion, in favour of the *Venetians* Dominion in the *Adriatick*. In the Year 1399, when the King of *Naples* had Marry'd his Siſter to the Arch-Duke of *Auſtria*, he did not pretend to tranſport her by way of the *Gulf*, without firſt asking the *Republick's* Leave. There are two Letters extant from the Emperor *Frederick* III. to *Giovanni Mocenigo*, then *Doge* of *Venice*, deſiring Liberty of the *State* to tranſport Corn through the *Adriatick* from *Apulia*; and others from the Kings of *Hungary*, to the ſame purpoſe, are produc'd by *Francis de Ingenuis* above-mention'd. All the Commanders of their Ships treat as open Enemies thoſe of any Prince or State, tho' in Peace with them, that attempt the leaſt Infringement of their *Dominion*; of which a very ſignal Inſtance happen'd in the Year 1638. when the *Turkiſh* Fleet having enter'd the Gulf without the Senate's Permiſſion, the *Venetian* General attack'd them in an Hoſtile manner, ſunk ſeveral of their Ships, and drove the reſt into *Valona*, a Port upon the *Adriatick* Sea belonging to the Grand Signior. The *Venetian* not ſatisfy'd with this, landed his Men, and put a great number of Mariners to the Sword, who had eſcap'd him at Sea. The Sultan not long after concluded a Treaty with the State, and by it 'twas agreed, *That it ſhould be lawful for the* Venetians *in Time to come, to ſeize by Force, if they did not otherwiſe ſubmit, all* Turkiſh *Veſſels which ſhould enter the Gulf without their Licenſe, and that even within the Ports and Havens,*

Havens, under the Obedience of the Grand Signior, *ſituated on the* Venetian *Gulf.* We have inſtanc'd before, their refuſing to let the Queen of *Hungary* paſs, and the Emperor and King of *Spain's* owning their *Dominion* by complying with them. 'Tis true, the Emperors had from Time to Time endeavour'd to ſhare this Dominion with them, but the Republick would never admit of it; and in the Year 1535. Commiſſioners on both ſides met at *Friuli*, to decide this important Queſtion; where two Advocates, *Rapicio* for the Emperor, and *Chizzola* for the State of *Venice*, learnedly diſputed this Matter. After a full Hearing, and ſeveral Weighty Arguments, too long to be inſerted here, the Imperial Commiſſioners acknowledg'd, *that by the Native Force, and Evidence of the Learned* Chizzola's *Diſcourſe, they were perſwaded in their Conſciences that the Commonwealth of* Venice *was the undoubted Miſtreſs and Protectreſs of the* Adriatick *Gulf, and might there impoſe what Cuſtom ſhe thought convenient.* Than which Declaration nothing cou'd be more glorious for the *Republick* of *Venice*, as being an Acknowledgment paid her by the Agents of the greateſt Power in *Europe:* Nor can any thing be a better Proof of the *Dominion* of the *Sea* in them. Which makes good the Argument of his *Britannick* Majeſty's *Sovereignty:* For there is not one Reaſon urg'd by *Chizzola* for the *Venetians Sovereignty* of the *Adriatick*, but will ſerve to vindicate the *Right* of the Crown of *Great Britain* to the *Dominion* of the *Britiſh* Seas; of which more in the following Chapter.

The *Venetians* are not the only Nation who have pretended to *Dominion* at *Sea.* The

Tuſcans and *Genoeſe*

Have done the ſame. The Great Duke of *Tuſcany* is generally acknowledg'd to be the lawful Lord and *Sovereign* of the *Tuſcan* Sea. To maintain which Sovereignty he has built ſeveral Forts and Caſtles there, to which ſuch Foreign Ships as arrive before them, are oblig'd to pay thoſe Marks of Reſpect that by the Laws of the Country are eſtabliſh'd. The *Genoeſe* were formerly very conſiderable at *Sea*, eſpecially in the Time of *Cruſades*, when, tho' rather by Policy than Power, they were ſuperior in the *Eaſt* to the *Venetians.* And before the *Engliſh* and *Dutch* fell into the *Perſian* and *Turkiſh* Trade, *Venice* and *Genoa* were the only Marts and Staple Ports of *Chriſtendom* for all the Pretious Commodities of thoſe Countries. The Hiſtories of *Italy* ſhew us how likely the *Genoeſe* were once to reduce the Commonwealth of *Venice.* Their

Fleet beſieg'd the City of *Venice*, and their Admiral *Doria* triumph'd in the *Adriatick* about the Year 1300; but the *Venetians* afterwards recover'd their *Naval* Power, and follow'd the *Genoeſe* ſo cloſely, that they broke theirs. However, the City of *Genoa* is ſtill as much frequented by Foreign Merchants, as any City in *Italy*; and according to *Benedictus Bonius*, lib. de Cenſibus, Artic. 16. §. 40. *'Tis the Lawful Sovereign of the* Liguſtick *Sea, and this State* always keeps a certain Number of Arm'd Gallies, and other Ships for the Defence of their Right and Title to that *Dominion*. The

Piſans

Were alſo very conſiderable in the *Mediterranean* Sea, about 3 or 400 Years ago, and once a Match for the *Geneoſe*; but they ſoon loſt their Reputation, and ſince the City has been annex'd to the Great Duke of *Tuſcany*'s Dominions, its *Trade* is ſunk, and *Leghorn* is now the only flouriſhing Port in *Tuſcany*. The

Pope

Pretends alſo to the *Sovereignty* of the *Sea*, which bears the Name of the *Church's Sea*, as is prov'd by the very Words of the Bull *Cenæ Domini*, which among other Delinquents, Excommunicates, and Anathematizes, *all Rovers, Pyrates and Robbers haunting and infeſting* Our Sea, *and eſpecially that part of it which lies between the Mountain* Argentaro *and* Serracius. The

The Pope's Sea.

Spaniards

Have ſometimes thought fit to ſpeak favourably of the *Community* of the *Sea*; yet when it was for their preſent purpoſe, they have as ſeverely maintain'd the *Dominion* of it as any other Nation; and notwithſtanding, that by the Common Law of *Caſtile*, the Uſe of the *Sea* is *free*; yet many of their moſt Eſteem'd Lawyers have declar'd in expreſs Terms, not only that according to their Opinion, the Sea is capable of *Dominion*; but that ſuch a *Dominion* was acquir'd by their King: And ſo the Prince may grant any Man a Permiſſion to fiſh in any certain part of the *Sea*, ſays *Gregorias Lopez* ad *Alphonſinas*, Partid. 3. Tit. 28. l. 11. Nor muſt we forget, that ſeveral *German* Authors in the Titles of *Charles* V. Emperor and King of *Spain* (and particularly in the Preface to the Conſtitution concerning publick Indicatures in the Empire) ſtile him

King

King of the Canary *Islands, and of the Islands and Continent of the* Indies, *and of the Ocean*, &c.

By which, tho' he was not really so, it sufficiently appears they did not question the Lawfulness of a *Dominion* in the Sea. As to the

Portugueze,

They are, above all others, obstinate Maintainers of this Doctrine, of the *Lawfulness* of a *Dominion* and *Propriety* in the *Sea*, as will sufficiently appear by the usual Title of their Kings. And particularly King *Emanuel*, in his Preface to the Laws of *Portugal*, stiles himself

Dom Manuel, per Grace de Deos Rey, &c. *Senhor de* Guinee, *& da Conquista & Navigacam & Commercio d'* Æthiopia, Arabia, Persia, *& da* Indie, *&c.*

Where he pretends to be sole Lord of the Navigation and Trade of *Æthiopia*, *Persia*, &c. But all this is nothing in Comparison to what is found in the Body of the Laws of *Portugal*, concerning the Pretensions of that Nation to the sole *Dominion* even of the vast *Atlantick Ocean* it self: For among the said Laws, *O Quinto Libro des Ordennaconnes*, Tit. 112. there is a more positive and absolute Prohibition to any Person whatsoever, whether Natives or Strangers, in any Ship or Vessel, *to pass to the Countries, Lands and Seas of* Guinea *and the* Indies, *either upon occasion of War or Commerce, or for any other Reason whatsoever, without the King of* Portugal's *special License and Authority, under Pain of Death, and Confiscation of all Effects, to be inflicted upon all such Persons as shou'd presume to go thither in Contempt of the said Prohibition.* Pursuant to this *Law*, several Persons who fell into the Hands of the *Portugueze*, were put to Death, and it extended to Foreigners as well as the King's own Subjects; tho' the former never acknowledg'd his Pretended Title to the *Dominion* of the *Atlantick* and *Southern* Sea, which gave occasion to a very hot Dispute between Queen *Elizabeth* and Don *Sebastian* King of *Portugal.*

tugal. But the Matter then in Queſtion was not, whether King *Sebaſtian* was capable of becoming Lawful *Sovereign* of thoſe Seas, but whether he had acquir'd ſuch a *Dominion* by Right of Occupation, or otherwiſe, which 'twas plain he had not. If we look into the Hiſtories of the *Northern* Nations, we ſhall find ſeveral of them have demanded *Dominion* at *Sea*; as the

Danes, *Norwegians*, *Swedes* and *Polanders*.

Before *Denmark* and *Norway* became united under one Monarch, the *Norwegians* had a ſeparate *Sovereignty* in the Sea as well as the *Danes*. *Saxo Grammaticus*, in the 7th Book of his Hiſtory of *Denmark*, writes, *That in the Time of* Harald Hildelan, *King of* Denmark, *none durſt preſume to uſurp any Privilege or Domination in the* Daniſh *Seas, becauſe the Empire of the Land and Sea was the ſame in* Denmark. He adds, that *Olo* (who ſucceeded his Father in both Dominions) vanquiſh'd all ſuch as pretended in any manner to infringe his *Sovereignty* therein. In the Year 1582. *Frederick* II. King of *Denmark* and *Norway*, permitted and let out the Paſſage and Uſe of the *Norwegian Sea* to the *Engliſh Muſcovy* Company; in the ſame manner as if he had rented out a Piece of Land.

The *Swedes* are of the ſame Opinion, with regard to the *Dominion* of the *Sea*, as very plainly appears by the Treaty concluded between *Chriſtiern* IV. King of *Denmark*, and *Guſtavus Adolphus* King of *Sweden*; in which the latter entirely renounc'd the *Sovereignty* formerly claimed by him over the *Seas* of *Norway*, *Norland*, and the Juriſdiction of *Wardhuyſen*. All Merchants concern'd in the *Baltick Trade*, know very well what great Revenues the King of *Denmark* raiſes out of the Royalties of that and the *Norwegian Sea*. As to the *Poles*, we find by *Januſzowskius*, Syntagma of the Statutes of that Republick, lib. 3. Tit. 1. Fol. 109. That when *Henry* Duke of *Anjou* was King of *Poland*, the *French* Ambaſſadors agreed, *That the ſaid moſt Illuſtrious Prince, then choſen, as ſoon as he ſhould aſſume the Government of his Kingdom, ſhould at his own Charge maintain a Navy ſufficient for the defence of the Ports, and of the* Sovereignty *of the* Sea, *belonging to the Kingdom and Dominions of* Poland.

French.

Tho' the *French* have ſometimes, in Oppoſition to the *Engliſh*, declar'd for the *Community* of the *Sea*; yet 'tis very certain they have

have pretended to the *Dominion* of it, and even to part of the *British* Seas. *Charondas Caronæus*, in Not. ad Cod. *Henrici* III. Lib. 20. Tit. 7. Conſtit. 1. and 28. ſays, *The King is* Sovereign *of the* Seas *which flow about his Kingdom, becauſe the Univerſal Right of all things common by the Laws of Nature and Nations, is transferr'd into his* Dominion. With which Aſſertion agree ſeveral Paſſages of *Stephanus*, *Paſchaſius*, *Ludovicus*, *Servinus*, *Popellenerius* and others. They pretend to derive a Title to the *Sea* that flows about the Coaſt of *Brittany* from the Poſſeſſion of that Continent, which they alledge had once a *Sovereignty* in the *Sea*: for the Proof of which they inſtance one *Rotlandius*, mention'd by *Eginhart*, in his Life of *Charlemagne*. He is there ſpoken of as Governour of that *Shoar*, where they affirm 'twas uſual to exact a certain Cuſtom of Ships that Navigated there, whereas that Cuſtom was only a ſort of *Pilotage* or *Conduct* Money, which was principally paid by the Inhabitants, or at moſt by ſuch only as Traded upon the Coaſt, for *Pilots* to Conduct them ſafe from the Shoar of *Bretagne*, which is very dangerous. That this was the Nature of that Exaction, is plain, by the Account *Bertandus Argenterus* gives of its Origin, in his Book *ad Conſuet. Brit.* Art. 46. where he ſays, *The antient Kings of* Brittany *conſidering the frequent Shipwracks which happen'd upon that Rocky Shoar, which then was almoſt deſtitute of Havens, made a Law that none ſhould go to Sea without taking Guides and Paſſes, for which they paid a certain Sum*, call'd in *Bretagne* to this Day *Droit de Salvage*. The *French* Kings have been ſo far from diſowning the *Sea* is not capable of *Dominion*, that they have uſurpt a *Sovereignty* which does not belong to them, by pretending to that part of the *Britiſh* Seas. For *Henry* II. and *Henry* III. publiſh'd two Edicts, *requiring all foreign Ships, Navigating in the neighbouring Seas, and meeting with any of their Ships, to ſtrike their Top-ſails in Acknowledgment of their pretended* Sovereignty, which Edicts they endeavour'd to get the Convention of *States* to confirm; but never could effect it: On the contrary, the latter of 'em was declar'd void, and of no effect in Law, in a notable Caſe; in which ſome *Hamburgh* Merchants were Plaintiffs, againſt *Mich. Butardus* and other Defendants, before an Aſſembly of the States of that Kingdom, held at *Tours* by *Henry* IV. We ſhall not in this Place anſwer the vain Arguments brought by the *French* Authors to prove their King's Title to the *Sovereignty* of the *Sea* flowing about their Coaſts: For by aſſerting and proving that there can be no Legal *Dominion* of any part of the *Britiſh* Sea, but what is in the Crown of *Great Britain*, all the *French* pretend to the contrary, will be

at

at once deſtroy'd, and appear to be groundleſs. Having taken Notice of the *Dominion* of the *Sea* claim'd by the Nations of *Chriſtendom*, we muſt now obſerve what *Naval Sovereignty* the

Turks

Pretend to in the *Levant*. The Grand Seignior ſucceeding by Right of Conqueſt to the *Sea* Dominion of the Emperors of *Conſtantinople*, chang'd the Name of the *Ægean* and *Euxine*, into thoſe of the *White* and *Black* Seas; of which he in a very ſolemn manner ſtiles himſelf Lord. This is particularly remarkable in the League concluded at *Paris* the 20th of *March*, 1604. between *Henry* IV. of *France*, and *Achmet* the *Ottoman* Emperor: By which *Achmet* granted the *French* Liberty to fiſh and ſearch for *Coral*, in certain *Streights* and *Bays* upon the Coaſt of *Africa*, ſubject to the *Sultan*. Beſides this, *Coriolanus Cippicus*, in his Hiſtory of *Pietro Mocenigo*, ſays, *The* Turks *had built two very ſtrong Caſtles oppoſite to one another on both ſides the* Helleſpont, *at its narroweſt Paſſage; which being well provided with Ordnance and Ammunition, the Governours had Orders to ſink all Ships that ſhould attempt to paſs without the Permiſſion of the* Grand Seignior.

As to the Opinion of the *Dutch*, with Reference to the *Sovereignty* of the Sea: They as well as the Hanſeatick Towns, have declar'd for a *Community* of the Sea; but that is, becauſe they being the greateſt *Traders* in the World, get more by that *Community* than any other People, and have very little to pretend to by a *Sea* Dominion. Whatever their real Sentiments are, they ſeem to be againſt any ſuch *Sovereignty*. But what is their Oppoſition to Right, Reaſon, and the Practice of almoſt all Countries and Ages?

The Hanſeatick Towns, in a diſpute about the *Venetians* aſſerting the *Sovereignty* of the *Adriatick* Sea, urg'd by their Advocates, that *Inter res communes, uti ipſe Imperator numerat Mare, & ideo nemo in Mari Piſcari aut Navigare prohibetur, & adverſus inhibentem competit Actio Injuriarum*, l. 10. *ſiquis in Mare*, l. *Injuriarum Sect. ult. de Injurijs, ſin Littora quoque communia ſunt*, l. 2. *re diverſ. Quia Acceſſorium ſunt Mercis, & Acceſſorium ſequitur Naturam Principalis*, l. 2. *de peculio legat.* c, *Aocceſſorium de Reg. Juris* 6. *Ad Littus Maris igitur accedere quivis poteſt, non piſcandi tantum gratia, ſed etiam ædificandi & occupandi cauſa*, l. *quod in Litt. de acquir. rer. Dom.* l. *in Lit. ne quid in loc. pub.* Jo. Angelius *J. C. de Repub. Hanſiat. par.* 6. *fol.* 85. *Edit. Franco. An. Dom.* 1641. But theſe Arguments were eaſily anſwer'd by the *Venetian* Lawyers, *Quemadmodum communi Littorum reſtringitur*,

gitur ad Populum equo occupata ſunt, lib. 3. Sect. Littora D. de quid in loc. pub. Ita etiam communia Maris, adeo ut per Mare a Nemine occupatum, Navigatio ſit omnino libera; per Mare autem occupatum ab aliquo Principe liberam habeant Navigationem, qui ſunt illi Principi ſubjecti; alij vero eatenus, quatenus idem Princeps permittit. Julius Tacitus de Dom. Maris Adriatici.

The Infringements the *Hollanders* have made on the Dominion of the *Britiſh Sea*, have coſt them dear; but now the two Nations are ſo nearly ally'd by Intereſt, 'tis to be hoped they will rather help us in maintaining that juſt *Dominion*, than ever think of abridging any part of it, ſince it will by the following Chapter appear, that the *Sovereignty* and *Dominion* of the *Britiſh* Seas are the ſole and undoubted Prerogative of the King or Queen of *Great Britain*.

CHAP. II.

Of the Dominion of the Britiſh *Sea.*

Wherein the Sovereignty is aſſerted and prov'd to have been always, and to be ſtill, the undoubted Right of the Kings and Queens of Great Britain.

IN handling this Argument, we ſhall in the firſt place ſettle the Bounds and Extent of the *Britiſh* Sea. The Eaſtern and Southern Coaſts of *Britain* are waſh'd by the *German* Ocean, and that which *Ptolemy* calls particularly the *Britiſh* Sea, which according to *Mela* in his Treatiſe *de ſitu Orbis, lib.* 2. *Cap.* III. reaches as far as the *Northern* Coaſt of *Spain.* And the *Arabian* Geographer (*Clim.* 4. *Part* 1.) ſays, towards the North *Andalouſia,* by which Name the *Arabians* comprehend all *Spain,* is waſh'd with the *Engliſh* Sea, adding, there are 9 Stages from *Toledo* to St. *James*'s, which Place he ſays (*Clim.* 5. *Part* 1.) is ſituated on a Promontory of the *Engliſh* Sea. St. *James*'s is a Town in the Province of *Galicia.* On the Weſt ſide of *Britain* lies the *Vergivian* Sea, which where it waſhes the Coaſt of *Scotland,* takes from thence the Name of the *Deucalidonian* Sea. Of this *Vergivian* Sea, the *Iriſh,* or St. *George*'s Channel, is a part. Upon the North of *Britain* flows the *Caledonian* Sea, in which are ſituate the *Orcades.* Thus the *Britiſh* Sea, or the Channel lying between *England* and *France,* the *Vergivian,* the *Deucalidonian,* and the *Caledonian* Seas, are properly call'd the *Britiſh* Seas, and as ſuch are ſubject to the *Britiſh* Empire. *Hugo Grotius,* in the 2d Book of his Treatiſe of Peace and War, Chap. 3. Sect. 11. ſpeaking of the Sea, has theſe Words, *The bare Poſſeſſion of the Shoar is not ſufficient to entitle any People to a Right to the adjoining Sea: Nor is it enough for a Prince to imagine or write himſelf Lord of the Sea, without proclaiming himſelf by ſome Overt Act to be ſo.* By which he certainly means, that 'tis not from a bare Occupation or Poſſeſſion of the Neighbouring Land, but from an actual and peculiar Uſe and Enjoyment of the Sea it ſelf, and exerting all the Functions of a Sovereign upon

upon it; ſuch as preſcribing Rules of Navigation to thoſe that frequent it, puniſhing Delinquents, protecting others, and receiving from all the Profits and Emoluments due to every Lawful Sovereign, that ſufficient Arguments can be deriv'd for proving a Lawful Title to the Dominion of it. And if we make it appear, that the Poſſeſſion of the *Britiſh* Sea was at firſt acquir'd, and ever ſince aſſerted, in the very manner ſpecified by that Author, tho' he wrote againſt it, we hope there will remain no Place for any Objection by which the Argument can any wiſe be invalidated.

Before we proceed further in it, we muſt obſerve here, that the Extent of the *Britiſh* Dominion in the *Eaſtern* and *Southern* Sea, was ſettled in a Treaty concluded in the Year 1674. between King *Charles* II. and the *States General*; by which it was to reach from the middle Point of the Land *Vanſtaten* in *Norway*, to Cape *Finiſterre*. This Dominion of the Sea entitles the Lawful Poſſeſſors to the 6 following Prerogatives.

1. The Royalty of granting the Liberty of Fiſhing for Pearl, Coral, and Amber, and all other ſuch Pretious Commodities.

2. To grant Licences to fiſh for whole Sturgeon, Pilchard, Salmon, Herring, and all other ſorts of Fiſh whatſoever, as is uſual in *Spain*, *Portugal*, and ſeveral other Places.

3. To impoſe Tribute and Cuſtom on all Merchant Ships and Fiſhermen, Fiſhing and Trading within the Limits of the Sea that is ſo ſubjected to any particular Dominion.

4. The Regular Execution of Juſtice, by Protecting the Innocent, and Puniſhing the Guilty for all Crimes committed within the Extent of ſuch Sea Dominions.

5. To grant free Paſſage through any ſuch Sea, to any Number of Ships of War belonging to any other Prince or Republick; or to deny the ſame, according to the Circumſtances and Occaſion *of ſuch Paſſage, in the ſame manner as any Prince or State* may grant or deny free Paſſage to the Foreign Troops through their Territories by Land, even tho' the Prince or State to whom ſuch Ships or Land Forces belong, be not only in Peace, but in Alliance with the Prince or Republick of whom Paſſage is deſir'd.

6. To demand of all foreign Ships whatſoever, within thoſe Seas, to ſtrike the Flag, and lower the Topſail to any Ships of War, or others bearing the Colours of the Sovereigns of ſuch Seas.

All which Prerogatives do unqueſtionably belong to the Kings and Queens of *Great Britain*: And as to the Duty of the Flag, 'tis an indifferent Honorary Ceremony, but a real Sign and Acknowledgment that the abſolute Sovereignty of the Seas in which the Colours are to be ſtruck, is veſted in the Prince to whom they pay that Duty. And ſuch is the Value that the *Britiſh* Nation in general puts upon the Exaction of this weighty Homage or Ceremony, that, according to the Marine Laws, the Neglect of it is puniſhable as open Rebellion or High Treaſon.

That this Acknowledgment was always taken for a Confeſſion of the abſolute Sovereignty of the *Engliſh* Seas, appears by a memorable Record among the Marine Laws, about the end of the Reign of King *John*, viz. * *That if a Lieutenant in any Voyage, being ordain'd by Common Council of the Kingdom, do encounter upon the Sea any Ships or Veſſels laden or unladen, that will not ſtrike and Veil their Bonnets at the Commandment of the Lieutenant of the King, but will fight againſt them of the Fleet; that if they can be taken, they be reputed as Enemies, and their Ships, Veſſels and Goods taken and forfeited as the Goods of Enemies, tho' the Maſters or Poſſeſſors of the ſame would come afterwards and alledge, that they are the Ships, Veſſels, and Goods of thoſe that are Friends to our Lord the King, and that the common People in the ſame be chaſtis'd by Impriſonment of their Bodies for their Rebellion, at Diſcretion.* This Homage of the Flag was ſtrenuouſly aſſerted by our Anceſtors, and no true *Britain* can without Honour think of loſing ſo Glorious a Privilege, which has been too much infring'd of late: But we hope His Majeſty's Victorious Arms, now Triumphing over all his Enemies at Sea, will force all that dare diſpute the Flag with the *Britains*, to acknowledge the Duty they owe the Crown of *Great Britain*, ſo that it may be left unqueſtion'd to ſucceeding Ages.

* *Inter Leg. Marinas ſub fine Anni Regni Regis Henrici ſecundi Le Ordinance cal Haſtings.*

This Claim of the *Britiſh* Sovereignty at Sea is no new Thing: It has the Sanction of 17 or 18 Centuries; and ſo long ago as *Cæſar*'s Time, did the *Britains* aſſert and maintain this Dominion, as may be ſeen in his Commentaries, *de Bello Gallico*, Book IV. where he ſays, † "That before his firſt Deſcent in *Britain*, having "ſummon'd the Merchants and other Sea-faring *Gauls* together, "and made a diligent Enquiry concerning the Situation of the *Britiſh*

† *Qui omnia fere Gallis erant incognita, neque enim temere præter Mercatores adit ad illos quiſquam, neque eis ipſis quidquam præter Oram Maritimam atque eas Regiones quæ ſunt contra Galliam notum eſt.*

" *tiſh* Shoar and Ports, he found that none durſt croſs the Seas to " go into *Britain* without Permiſſion, but Merchants; and that " they too were ſo ignorant of thoſe Shoars, (as being depriv'd of " a free Uſe of the Sea) that he was oblig'd to ſend *Voluſimus* in " a long Ship to ſound the *Britiſh* Coaſts. From whence it may be rationally inferr'd, That ſince the Antient *Britains* excluded the *Gauls*, and others at their Pleaſure, from the free Enjoyment of the Sea, they muſt certainly have been the Lords of it: And that this was not a bare Prohibition of coming into the Iſland of *Britain*, but even of Navigating within the Extent of their Maritime Dominion, is plain from this, that the Merchants themſelves who were allow'd to go thither, ſeem to have only had the Liberty of coming to an Anchor, and diſpoſing of their Goods upon the Coaſts, without being admitted into the Ports but very ſeldom; ſince thoſe that *Cæſar* had ſummon'd to conduct his Navy into *Britain*, could not undertake to do it, as being entirely ignorant of the ſituation of their Ports. If they were permitted to come to any Place, 'tis conceiv'd to be *Gauls* Town near *Yarmouth*. They had a Naval Force to defend this Naval Dominion; which when *Cæſar* ſaw, he preferr'd their Ships to the *Romans*. Theſe Ships coming to the Aſſiſtance of the *Gauls*, were the Occaſion of his Expedition to *Britain*, to revenge himſelf for the Succours the Inhabitants had ſent their Neighbours, his Enemies.

Quod omnibus fere Galli Hoſtibus noſtris inde ſubminiſtrato auxilia intelligebat.

But we have other poſitive Evidence of the *Britains* being acknowledg'd by the Antients to have been at that Time Lords of the adjacent Seas: For *Petrus Ramus* ſpeaking of a furious Tempeſt by which *Cæſar*'s Fleet was diſpers'd, and in no ſmall Danger of being entirely loſt, ſays, *That the Sea ſeem'd to raiſe a Storm in Revenge of the* Britains, *and in Diſdain of her new and unknown Lord*, meaning *Julius Cæſar*, whoſe Conqueſts here were indeed more talk'd of than they deſerv'd; for he ſubdu'd only an inconſiderable Part of the Coaſt, and the Dominion of the *Britiſh* Sea did not abſolutely fall into the Hands of the *Romans*, till the Reigns of the Emperors *Claudius* and *Domitian*, who having conquer'd the Southern Parts of the Iſland, the Empire of the Sea, at leaſt in Proportion to that Part that was conquer'd on the Shoar, did neceſſarily devolve upon the Poſſeſſor of the Land, and was actually reckon'd a Part of his Dominion, as well by his Subjects as himſelf, which appears plainly by ſeveral Paſſages of Epigrams written to the Emperor *Claudius*, by a Poet of that Age.

Auſonijs nunquam Tellus violata Triumphis
Icta tuo Cæſar, fulmine procubijt.

Oceanuſque tuas ultra ſe reſpicit Aras,
Qui finis Mundo eſt, non eſt Imperio.

Euphrates *Artus Rhenus recluſerat Arctos,*
Oceanus medium venit in Imperium;

At nunc Oceanus Geminos interluit Orbes,
Pars eſt Imperij Terminus ante fuit.

Oceanus jam Terga dedit, nec pervius ulli
Cæſareos Faſces Imperiumque tulit.

Illa procul noſtro ſemota, excluſaque Cœlo,
Alluitur noſtra victa Britannis *Aqua.*

In which the Poet tells us, That the Sea being by him ſubdu'd with *Britain*, what before had been the Bound was then become a part of the *Roman* Empire, which was extended beyond the Limits of the Earth it ſelf: And that Poet being a *Roman*, and in the laſt two Lines, ſpeaking of the Water of the *Sea*, calls it *noſtra Aqua*, Our Water. To this Teſtimony we may add a Paſſage out of *Seneca*, in his *Apocolocyntheſis*; where ſpeaking of the ſame Emperor, he ſays,

Juſſit & ipſum
Nova Romanæ
Jura ſecuris
Tremere Oceanum.

That he was the firſt of the *Roman* Emperors who had ſubjected the *Sea* to his Dominion; by which he could mean no other but the *Britiſh* Seas. However, the *Romans* were not then ſo fully in Poſſeſſion of the *Britiſh* Seas, as they were afterwards in the Days of the Emperor *Domitian*; who ſending *Agricola* to be his Lieutenant in the Province of *Britain*; this General extended the *Roman* Conqueſts much further towards the North, than any had done before him: He alſo ſail'd round the Land, diſcover'd the *Orcades* or *Orkney* Iſlands, ſituate on the North of *Scotland*, and till then unknown; and having conquer'd them, the Empire of the

Tacit. in Vita Agricol.

the Northern *British* Seas was poſſeſt by the *Romans*, as well as that of the Southern, which gave Occaſion to *Juvenal* in his 2d Satyr to expreſs himſelf thus.

———————. *Arma quidem ultra*
Littora Juvernæ promovimus, & modo captas
Orcades. ———————

Seneca alſo witneſſes, *That* Agricola *deſigning to make War upon the* Caledonians, *provided a powerful Fleet, to favour, by a Mighty Diverſion by Sea, the Enterprizes of his Army by Land.* The *Romans* having acquir'd the *Sovereignty* of the *Britiſh* Seas, committed the Management of Naval Affairs here to a great *Sea* Officer, call'd *Archigubernus*, who had a numerous Fleet under his Command, with which he was order'd to aſſert and maintain the *Roman* Dominion in the *Britiſh* Seas, but the *Romans* abandoning afterwards their Conqueſts in the North, retir'd into the Southern Parts of *Britain*; and we may ſuppoſe as they loſt the *Dominion* of the Land in the North, ſo they were oblig'd to give up the *Sovereignty* of the *Sea* there, which naturally return'd to the *Britains*. We find little mention made of the Affairs of the *Romans* in *Britain*, eſpecially thoſe relating to the *Sea*, till the Reign of *Diocleſian*, who ſent *C. Carauſius* to ſcower the *Britiſh* Seas, which were infeſted with *Gauliſh* and *Saxon* Pyrates. This *Carauſius* afterwards uſurp'd here, and maintain'd the *Sovereignty* by *Sea* and *Land* ſeven Years. *Caius Allectus*, who kill'd him, coin'd a Medal, having on one ſide his Name and Image, (for he alſo uſurp'd) and on the Reverſe a Three Oar'd Galley, with this Inſcription, *Virtus Auguſta*; by which Repreſentation he meant to expreſs the Force and Greatneſs of the Empire of the *Britiſh* Seas. *Conſtantius Chlorus*, who reduc'd him, is complimented upon it by ſeveral Authors; who among other Things, highly extol him, *For the Reſtitution of the Sea-Dominion to the* Romans, *and of Freedom of Traffick and Commerce to all Nations, by ſcowring the Sea from Pyrates, not only upon the Coaſts of* Gaul, *but even of* Spain *and* Africa.

About the Time of *Conſtantine* the Great, an Officer was eſtabliſh'd in *Britain*, by the Name of *Count of the Saxon Shoar*, who beſides his Command at *Land*, had under his Government the *Seas* flowing between *France*, *Holland*, *Germany*, *Denmark*, and this Iſland; and that not as a Bound, but as a diſtinct Part of the *Britiſh* Empire, as there was a Præfect of the *Euphrates*, a Count of the *Danube*, a Count of the *Rhine*, &c. By the *Saxon* Shoar

'tis

'tis very plain that the Shoars of all the above-mention'd Countries are meant, becauſe the *Saxons* being then the moſt potent People in *Germany*, enlarg'd their Conqueſts all along the Coaſts of *Germany*, *Holland* and *France*; which appears by the *Breviary* of the Imperial Dignities, where ſpeaking of that Tract of *Land* extending from the Mouth of the *Loire* to that of the *Seine*, 'tis ſaid, *Under the Command of the Duke of that Province there was a Tribune of the firſt Band of Soldiers of* Armorica *and* Grammona, *on the* Saxon *Shoar*. And again, ſpeaking of that Shoar, which extends from the *Seine* to the *Maeſe*, including *Normandy*, *Picardy* and *Flanders*, 'tis ſaid, *There were* Dalmatian *Horſemen lodg'd upon thoſe Borders on the* Saxon *Shoar:* And in effect all the Shoars extending from the Weſtern Parts of *Denmark* to the Weſtern Parts of *France*, are in the *Breviary* moſt expreſly comprehended under the general Term of the *Saxon Shoar*; the Count of which reſided in *Britain*, as the Seat of the *Sovereignty* of all thoſe *Seas*. 'Tis very certain, the *Saxons* never ſeated themſelves in *Britain*, till after the *Romans* had abandon'd the Iſland. Some Deſcents they might probably have made as Pyrates; but never poſſeſt themſelves of any Part of the Country, till after King *Vortigern* call'd them in againſt the *Picts*, whereas they had ſettled on the Coaſts of *Gaul* and *Belgia*; and the *Saxon* Shoar cannot, without committing a great Abſurdity, be ſuppos'd to mean that of *Britain*, where the *Saxons* had not ſeated themſelves, but that of *Belgia* and *Gaul*, where they had; which Coaſt by the Breviary is plainly prov'd to be the *Saxon Shoar*, under the Count above-nam'd, who reſided, as has been ſaid, in *Britain*. And for a Confirmation that *Britain* and the *Saxon Shoar* were two different Juriſdictions, we ſhall here inſert a Liſt of other Governours and Officers that were under the Command of the *Magiſter Militum Preſentalis*, according to the very Words of the Breviary.

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Comites Limitum infra ſcriptorum.

Italiæ,
Africæ,
Tingitanæ,
Tractus Argentoratenſis,
Britanniarum,
Littoris Saxonici per Britannias.

In the Edition of *Alciatus* and *Pancirollus*, the Word *Militum* is by a Miſtake inſerted for *Limitum*. By this Liſt it appears that theſe two, *Comites Britanniarum, & Littoris Saxonici per Britannias*, had different Juriſdictions; the firſt being Count of the Bounds of *Britain* by Land, within the Bounds of the *Saxon Shoar*; and the ſecond being Count of the *Saxon Shoar*, or of the Sea-Juriſdiction of *Britain*, extending to the oppoſite *Saxon Shoar*. This Maritime Dominion of the *Romans* in *Britain* more fully appears by the manner in which that Province was repreſented on the Braſs Coins of the Emperor *Antoninus Pius*, which bearing on one ſide the Image and Inſcription of that Emperor, on the Reverſe repreſented *Britain*, in the Figure of a Woman cloath'd in a looſe ſort of Linnen Garment, ſitting ſometimes upon a Rock, and ſometimes upon a Globe in the Sea, with a Military Enſign, a Spear, and a Buckler, by which the *Romans* undoubtedly meant to expreſs the *Britiſh* Dominion over the Sea, and their Emperors Dominion over *Britain*; with which exactly agree ſeveral Paſſages of the Poet *Claudian*; particularly one, when he brings in *Britannia* her ſelf cloath'd with a Leather Garment of a Blewiſh mix'd Colour, repreſenting the Waves of the Sea, which he ſets under her Feet, and in that Dreſs makes her appear at *Rome* with *Africa*, *Spain*, and other Provinces, to demand the Conſulſhip for *Flavius Stilicho*, Guardian of the Emperor *Honorius*; he puts theſe Words in the Mouth of *Britannia*,

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Ferro picta genas; *cujus Veſtigia verrit*
Cærulus, Oceanique æſtum mentitur Amictus;
Me quoque vicinis pereuntem Gentibus, inquit
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Now tho' both *Spain* and *Africa* be not only waſh'd, but almoſt ſurrounded by the Sea, yet the Poet only introduces the firſt with Leaves of the Palm-Tree, and a Mantle embroider'd with the River *Tagus*; and the ſecond with Ears of Corn and Ivory, without taking any manner of Notice of the *Seas*, in which theſe two great Provinces are ſituate. 'Tis plain therefore, by the Attire that *Britannia* is repreſented in, That the Dominion of the Sea, upon which he ſets her Feet, was no leſs peculiar to her, than the Palms and the *Tagus* to *Spain*, and the Corn and Ivory to *Africk*.

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About the Year 450. the *Romans* having entirely abandon'd *Britain*, the *Britains* reſum'd the Sovereignty of the Sea as ſoon as they found themſelves in Poſſeſſion of that of the *Land*. But having been weaken'd by the frequent Levies that the *Romans* made of Soldiers here, to ſerve them in other Parts of their Empire, the *Scots* and *Picts*, to revenge themſelves for old Quarrels, fell upon them and forc'd them to call in the *Saxons* to their Aſſiſtance, declaring they were not capable of aſſiſting them. The *Saxons* by Treachery got Poſſeſſion of ſeveral Parts of the Iſland, turn'd their Arms againſt thoſe they came to aſſiſt, and new Adventurers coming from *Germany* to *Britain* to make their Fortunes here, the Leaders of each Colony founded a Kingdom, and from the Number of theſe Monarchies, the famous Name of Heptarchy was given to the *Sovereignty* of this Iſland, to which the *Dominion* of the *Britiſh* Seas was always a certain Appendant, where the *Britains*, *Saxons*, or *Danes* were Maſters of the Iſland. 'Tis ſaid, *Arthur* ſail'd with his Victorious Fleet and Army as far as *Ireland*, forcing thoſe *Northern* People to pay Obeyſance to his Standard, and acknowledge him for ſupream Lord, even from the *Britiſh* to the *Ruſſian* Shoar. Tho' this perhaps is in the Fable, yet 'tis plain 'twas the received Opinion that the *Britains* pretended even then to the *Sovereignty* of the *Sea*.

Abrahamus Wheelochus de priſcis Anglorum Legibus. Written originally by Mr. Lambard.

Having ſpoken of the Maritime Sovereignty of the *Britains* and *Romans*, that of the *Saxons* and *Danes* comes next to be treated of. The *Saxons* even at the Time of their firſt Arrival in *Britain*, were very Powerful at *Sea*, and very expert in the Art of *Navigation*, as it was practis'd in thoſe Days, which is prov'd by the Character given of them by *Bede* and other Authors of Credit. *The* Saxons, ſay they, *were ſo familiarly and particularly acquainted with the Maritime Affairs, that by an almoſt incredible Nicety, in their Obſervations, they counted Months and Years only by the continual Revolution of the Tide, or Ebbing and Flowing of the Sea; calling the former in their Language,* Ledones *or* Lidunas, *and the latter* Malinas; and *Ethelherd* an ancient Writer ſeems to inſinuate in his firſt Book, That the *Britains* being then inform'd the *Saxons* were a People very expert in Navigation, and well provided with all Things neceſſary for War, they were the more deſirous of their Alliance: To whom they ſent Ambaſſadors with conſiderable Preſents, and Offers of a free Trade and Commerce. That they came, conquer'd, and were themſelves conquer'd by the *Danes*, is related in our *Engliſh* Hiſtories. All that can be expected from us, is, to report as much out of them as proves, that both

both *Saxons* and *Danes*, while they were Maſters here, were in Poſſeſſion of the Dominion of the *Britiſh* Seas.

Gildas relates, that *Octa* and *Ebiſſa*, two Leaders of the *Saxons*, extended their Dominions on the *Northern* Coaſt of this Iſland; and *Allor*, with his Sons *Ciſſa* and *Cimenus* on the *Southern*, and that they ſoon became Maſters of the Seas to the Southward of *Scotland*. The former with 40 Arm'd Veſſels ſailing about that Kingdom, invading and ſpoiling the *Orcades*; but minding their Sovereignty at Land more than at Sea, their Naval Strength fell to decay; which the *Danes* and *Normans* obſerving, 'twas a Temptation to them to infeſt this Iſland, and commit frequent Robberies in the *Britiſh* Seas, in a ſort of Long-Boats or Gallies of their own Inventions, with which they us'd to be too hard for the *Engliſh Saxons*, till *Alfred* caus'd a great Number of other Ships to be built longer, deeper, and nimbler, than the *Danes*; by which means he drove thoſe Invaders out of the *Engliſh* Seas, and recover'd the abſolute Dominion of them, which was tranſmitted to the ſucceeding Kings, of whom *Edgar* became ſo powerful at Sea, that *Florence* of *Worceſter* tells us, *In the Year* 937. *King* Edgar *ſailing about* Britain *with a mighty Navy, and arriving at* Cheſter, *was there met by eight petty Kings, who according to his Command were come to do him Homage, which they did, and promis'd to be always ready to obey his Orders, and ſerve him both by Sea and Land.*

'Twas at this Meeting that this Monarch was row'd down the *Dee* by thoſe Kings, himſelf ſteering the Boat; a Marine Triumph which is not to be paralell'd in the Hiſtories of *Europe*. All Accounts agree, that this King was very impatient of any Competition in the Dominion of the Sea. His Fleet is ſaid to conſiſt of 1300 Sail; ſome Authors make 'em Thouſands, which he divided ſometimes into Three, and ſometimes into Four Squadrons, to each of which he aſſign'd a certain Station. He us'd to ſail in the Spring every Year round his Dominions, in Token of his abſolute Sovereignty over the Sea; which he always maintain'd very carefully againſt Incroachers.

We may ſee by an Extract of an old Record, how far King *Edgar* pretended to the Sovereignty of the Sea, *Albitonantis Dei largiflua qui eſt Rex Regum, Ego* Edgarus *Anglorum Baſileus, omniumque rerum Inſularum Oceani quæ* Britanniam *circumjacent, cunctarumque Nationum quæ infra eam includuntur, Imperator & Dominus*; and *Ranulph* of *Cheſter*, tho' he does not ſwell the Number to above 400 Ships, makes mention of his Sailing round the Iſland: *Idem quoque* Edgarus 400 *Naves congregavit, ex quibus omni* *Ex Chart. Fundam. Eccleſ. Wigorn.*

omni Anno poſt Feſtum Paſchæ 100 *Naves ad quamlibet* Angliæ *partem ſtatuit ; ſic Æſtate Inſulam circumnavigavit* : But the *Danes* afterwards, as they had been before, were very ſucceſsful in their Attempts againſt the *Saxons* here both by Sea and Land. Inſomuch, that the *Engliſh* or *Saxon-Britains* were forc'd to buy them off, and a Tax call'd *Danegelt* was levy'd here, to be paid them that they might not aſſault the Inhabitants of this Iſland either by Land or Sea. The *Saxons* or *Engliſh* maintain'd the *Daniſh* Fleet which was to be employ'd for the Defence and Guard of the *Engliſh* Seas, as well as of the Kingdom. *Edward* the Confeſſor aboliſh'd this Tribute, as far at leaſt as it was to be paid to the *Danes*, ſome Authors writing that this Tax was levy'd after the *Engliſh* threw off their Subjection to the *Danes*, for the Maintenance of the *Engliſh* Navy, which was afterwards ſtrong enough to defend the Sovereignty of the *Britiſh* Seas till the *Norman* Invaſion. It appears by all this, that the Dominion of the Sea went with that of the Land; and that in *Edgar*'s Time, the *Engliſh Saxons* enjoy'd it without Competitors, as they did alſo under *Canutus* the *Dane*, of whom 'tis written, that deſigning to check the Vanity of Flatterers, by ſhewing them, that even the Greateſt Kings were, at their Higheſt Pitch of Grandeur, only Men, ſat down on a Seat on *Southampton* Shoar, to make a Tryal before them of the Obedience of the Sea. To whom he thus addreſs'd himſelf.

Math. Weſt. Anno 1035. *fol.* 409.

Thou, O Sea! art under my Dominion, as the Ground upon which I ſit is mine, and none did ever diſobey me and was unpuniſh'd. I command thee not to come up upon my Land, nor to preſume to wet the Feet or Garments of thy Lord.

But the Tide flowing in the ordinary manner, and wetting not only his Majeſty's Feet but his Legs, the King leaping up, reſign'd his Crown of Gold to a Crucifix, declaring none was worthy of the Name of a King, but him alone who can command both Sea and Land, and they obey. It cannot be expected that the Sovereignty of the *Britiſh* Seas ſhould be maintain'd without any Intervals of Invaſion by Foreign Powers, in ſuch confus'd Times as the *Heptarchy*, and the Contention between the *Engliſh* and *Danes* ; but 'twill be ſeen, that whenever the Dominion of this Iſland was ſettl'd, that of the *Sea* was always an Appendant to it : And ſince the *Norman* Invaſion, the Kings of *England* have defended their Sovereignty againſt all foreign Powers, and their Dominion at Sea has been aſſerted and acknowledg'd without any remarkable

In-

Interruption from the Year 1066. to the preſent Times; we ſhall now therefore prove, that the Civil and Natural Poſſeſſion of the Sovereignty of the *Engliſh* Seas have been inveſted in the Kings or Queens of this Nation, from the *Norman* Invaſion to our Times.

By a Civil Poſſeſſion, (according to the Explication of *Hugo Grotius*, in this Treatiſe *de Jure Civili*, Lib. 5.) we mean, *That which is requiſite by Law to found a Right and Title upon*, and by a Natural Poſſeſſion we mean an *Actual Poſſeſſion*, which according to the ſame Author, is alſo neceſſary for proving the Validity of any Prince's Title to the Sovereignty of the Sea: Both of which we undertake to prove. As,

I. That the Kings of *England* have by many ſolemn Overt Acts and Declarations, aſcrib'd to themſelves the Dominion of the adjacent Seas, and that that Dominion has been both allow'd and confirm'd, not only by the Laws and Cuſtoms of the Nation (as appears by the Records of Parliament, *&c.*) but alſo by the common and univerſal Aſſent of all the Neighbouring, and other Foreign Nations concern'd.

II. That the Kings and Queens of *England* have always exercis'd the Dominion of the *Engliſh* Seas, as well as of the Iſlands ſituate in them, as of a Province belonging to them, in which they have levy'd Tribute and Cuſtoms of Foreigners, and have alſo preſcrib'd Laws of Navigation to ſuch Foreigners, as in Time of Peace have enjoy'd their Protection there, and that (in caſe of the Violation of ſuch Laws) foreign Princes and States by making Application to them, have thereby openly acquieſc'd and acknowledg'd them to be the Sovereign Lords of the Sea.

III. That Paſſage through the *Engliſh* Seas having been humbly deſir'd, has been ſometimes granted, and ſometimes refus'd by the Kings and Queens of *England*, to the Foreigners that petition'd for it; and alſo that all Ships Navigating in their Seas on certain Occaſions, have been ſtopp'd and arreſted for the Service, and by the Command of the Kings of *England*.

IV. That the Liberty of Fiſhing in the *Britiſh* Seas, has been frequently obtain'd by Licenſe of the Kings and Queens of *Britain*; and that Protection has been given by them to the Fiſhers, upon whoſe humble Requeſt ſuch Licenſe had been granted, and a Tribute exacted for that Protection.

To

To this ſhall be added ſeveral other Accidental Evidences; but as for what happen'd from the *Norman* Invaſion, to the Union of the two Crowns under *James* I. we ſhall not be ſo particular, as in what has faln out ſince that Time; becauſe that being of later Date, will conſequently be of greater Weight.

The Order which we propoſe to obſerve, will naturally lead us to treat of the Dominion of the Weſtern or *Iriſh* Sea, in diſcourſing of the State of the Maritime Affairs of *England*, at the Time that the Sovereignty of that *Sea* was added to that of the *Engliſh*, by the Acceſſion of *Ireland* to the Crown of *England*, under King *Henry* II. and King *John*, who conquer'd that Iſland.

As to the Dominion of the Northern, or *Caledonian* and *Deucaledonian* Seas, we ſhall in due Time clearly evince, that it is the ſole and undoubted Prerogative of his *Britiſh* Majeſty, as a neceſſary Appendant of the Sovereignty of the Kingdom of *Scotland*, both which He has deriv'd by an unqueſtionable Right from his Royal Anceſtors, the Kings and Queens of that Country.

To begin with *William* the *Norman*, it appears by ſeveral Paſſages in *Doomſ-day* Book, ſaid to be written in his Reign, that he maintain'd the Maritime Affairs of *England* in a very flouriſhing Poſture. And other Hiſtories ſpeak largely of his Powerful Navies, which by the Addition of the *Norman* Fleet, muſt have been ſufficient to ſecure the Dominion of the Sea; and tho' the *Danes* appear'd in the Northern Parts, and committed ſome Pyracies in the Weſtern, yet they durſt not engage the Royal Navy of *England*, but did what they perform'd by Stealth and Surprize.

The *Normans* immediate Succeſſors, *William Rufus* and *Henry* I. were as careful of maintaining their Empire at *Sea*, as their Father the firſt *William* had been. *Florence* of *Worceſter* and *Hoveden* relate, *That being about to declare a War againſt* Robert *Duke of* Normandy, *who was then preparing for an Expedition into* England, *he commanded his* Butſecarli, a Sort of Sea-Officers then known by that Name, *to guard the Seas, and take Care that no Perſon ſhould paſs over from* Normandy *towards the* Engliſh *Coaſts.* Beſides, that this is a ſufficient Proof of his Strength at *Sea*, the very Office of theſe *Butſecarli* proves, that he look'd upon himſelf as Lawful Sovereign of it; they being no other than *Cuſtodes ipſius Maris*, or Guardians of the Sea, as will be ſhewn more fully hereafter. The Confuſions that happen'd in *Stephen*'s Reign, hinder'd the Growth of the *Engliſh* Strength at *Sea*, or indeed the King's minding his Sovereignty there, when his Dominion at *Land* was made precarious, by the Intereſt of *Maud* the Em-

Empreſs, and her Son *Henry* II. in whoſe Time *Ireland* being conquer'd, the Weſtern Sea was added to the Maritime Empire of the Kings of *England*, and that theſe Kings have expreſly vindicated and aſſerted their Title to the Dominion of thoſe Seas, appears among other *Iriſh* Statutes, by an Act made in the Reign of *Edward* IV. *Stat. Hibern. Cap.* 6. forbidding Fiſhing there without Licenſes, and laying a Tax on all Boats and Veſſels coming thither to fiſh: Since which, King *James* I. did, by a ſolemn Proclamation, poſitively forbid all Fiſhing upon the *Iriſh* Coaſts, to Foreigners, without Permiſſion. Many other Inſtances might be given to prove, that the Kings of *England* have from Time to Time aſſerted their Right to the Sovereignty of the *Iriſh*, as well as of their other Seas. Which warrants us from the Reign of King *John*, when *Ireland* was annex'd to the Crown of *England*, to reckon them a Part of the *Britiſh* Seas; the Empire of which we are now endeavouring to maintain to be Part of the Sovereignty of *Britain*.

King *John*, in the Paſſage before cited, challenges the Duty of the Flag, near 500 Years ago, by that memorable Ordenance at *Haſtings*, there decreed to place univerſally, not barely as a Mark of *Courteſy*, but as a *Right*, *cum debita Reverentia*, and all that refus'd it, were to be aſſaulted as Enemies. This Duty of the Flag is a conſecutive Acknowledgment that the Right and *Dominion* of the *Seas* are in him to whoſe Flag they ſtrike and pay that Homage, implying, that the Prince grants a general Licenſe for Ships to paſs through his *Seas*, that are his Friends, paying him that Duty: Like thoſe Services when Lords grant out Eſtates, reſerving a *Pepper-Corn*, or ſome ſuch Trifle, the Value of which is not regarded, but the Remembrance and Acknowledging their Benefactors Right and *Dominion*. This *Salutation* is to be paid not only by Foreigners, but alſo by Natural born Subjects, and ſuch as refuſe to do it, may be brought to the *Flag* to anſwer the Contempt. King *John* aſſerted his Title to this Homage, by a Fleet of no leſs than 500 Ships, in a Voyage Royal of his, when he ſail'd to *Ireland*, commanding all Veſſels which he met in his Way, to pay that Duty and Acknowledgment; and our ſucceeding Kings have done the ſame, with more or leſs Vigour and Succeſs, according to the Circumſtances of their Affairs. His Son *Henry* III. was too much involv'd in his Wars with the Barons to mind his Naval Dominion: But then *Henry*'s Son *Edward* I. coming to the Crown about the Year 1272. and entring into a War with *Philip* the Fair of *France*, both Princes agreed upon a Freedom of Commerce (then call'd *Sufferance of War*) Each ap-

appointed Commiſſioners to take Cognizance of all Things relating to this Agreement, which they were to decide, according to the Laws and Cuſtoms of Merchants, as far as 'twas allow'd by the aforeſaid Treaty of Commerce. When theſe two Kings concluded a Peace, they mutually oblig'd themſelves to be Enemies to each others Enemies, except ſome Princes expreſly mention'd in the Treaty of Peace and Alliance. But ſeveral Complaints ariſing concerning Injuries done, and Violences offer'd to Merchant-Men upon that Sea, not only during the *Sufferance*, but after the Peace, and the two Kings foreſeeing the Differences between the King of *France* and the Earl of *Flanders*, might give Occaſion to other Complaints of that Nature, they appointed each four Commiſſioners, with full Power to decide all Controverſies of that kind that had happen'd or might happen. Upon which a very remarkable Remonſtrance was exhibited to them; not only in the Name of the whole Body of the People of *England*; but there alſo join'd in it the Procurators of all the Nations in *Europe*, that were then in any manner conſiderable for Trade and Navigation, who all unanimouſly acknowledg'd *the Kings of* England *to have been Time out of Mind* (Quatenus Kings of *England*) *the Lawful Sovereigns of the* Engliſh *Seas*. This is ſuch an Authentick Proof that none can with any Colour of Reaſon object againſt it. The Original Writing is among the Archives, kept in the Tower of *London*, in the old *French* or *Norman* Tongue, in which 'twas then uſual to draw up ſuch ſort of Things. The Reader will not be diſpleas'd with a Tranſlation of as much of it as relates to the preſent Controverſy.

Selden de Dom. Maris, l. 2. c. 14. p. 27, 28.

Roll's Abridg. 2 Part. 174.

See Coke 4. Inſtit. f. 142.

" To you our Lords, Auditors, deputed by the Kings of *England* and *France*, to redreſs the Injuries done to their Subjects " by Sea and Land, in Times of Truce and Peace; We the Procurators of the Prelates and Nobles, and of the Admiral of the " *Engliſh* Sea, as well as of the Cities and Towns, and of the " Merchants, Mariners, Meſſengers, and Foreign Inhabitants, and " all others belonging to the Realm of *England*, and other Dominions and Territories belonging to the King of *England*; as " alſo of divers other Inhabitants of *Genoa*, *Catalonia*, *Spain*, " *Germany*, *Zealand*, *Friſeland*, *Denmark* and *Norway*, and of " ſundry other Maritime Places of the Empire, moſt Humbly " ſhew, That whereas the Kings of *England*, by Right of the " ſaid Kingdom, have always been in peaceable Poſſeſſion of the " Sovereign Lordſhip of the *Engliſh* Seas, and of the Iſlands ſituate within the ſame, with Power of Conſtituting and Appoint-

" ing

" ing of Laws and Statutes, and of prohibiting the Uſe of Arms " and Paſſage of Ships, otherwiſe equipt than Merchant Ships, " and of taking Security and granting Protection, as Occaſion " ſhall require, and of appointing all other Things neceſſary for " the maintaining of Peace, Juſtice and Equity among all Man- " ner of People, as well Foreigners as their own Subjects navi- " gating in thoſe Seas, and alſo of determining all Cauſes and " Differences, and adminiſtring Juſtice to *High* and *Low*, accor- " ding to the aforeſaid Laws, Statutes, Ordinances, Conſtitutions, " and Prohibitions, and generally of doing and acting all other " Things incumbent and belonging to the Exerciſe of their Sove- " reign Juriſdiction within the aforeſaid Seas, and whereas, *&c.*

Tho' the *Flemings* are not mention'd in this Libel, it appears in the Records, *Rot. P.* 14. *Ed.* 11. *Part* 2. *Membran.* 26. that the Ambaſſadors of the Earl of *Flanders* to that King, fully acknowledg'd the undeniable Right of the Crown of *England* to the Sovereignty of the adjacent Seas. The Paſſage is this,

MEMORANDUM,

" That whereas for the Reformation of certain Injuries in an " amicable Way, done by the Subjects of the Earl of *Flanders* to " the Subjects of the Kingdom of *England*, and by the Subjects " of the ſaid Kingdom to thoſe of *Flanders*, ſince the Time that " our ſaid Lord the King undertook the Government of his King- " dom, *&c.* And whereas the ſaid Ambaſſadors had been admit- " ted by our ſaid Lord the King, to treat anew of this Kind of " Injuries, theſe Ambaſſadors or other Ambaſſadors of the afore- " ſaid Earl, in the aforeſaid Treaties, did among other Particu- " lars that they requir'd, before all Things, make Supplication, " that the ſaid Lord the King, would at his own Suit, by Virtue " of his Royal Authority, cauſe Inquiry to be made, and do Ju- " ſtice, about a certain Depredation lately made by the Subjects " of *England*, (as 'tis ſaid) upon the *Engliſh Sea*, of Wines and " divers other Merchandizes, belonging to certain Men of *Flan-* " *ders*, towards the Parts of *Cranden*, within the Territory and " Juriſdiction of our ſaid Lord the King, alledging, that the " aforeſaid Wines and Merchandizes taken from the ſaid *Flemings*, " were brought within the Juriſdiction and Realm of the ſaid " Lord the King, and that it belong'd to the King himſelf ſo to " do, for that he is *Lord of the ſaid Sea.*

To theſe Teſtimonies of the Dominion of the Crown of *England* in the Neighbouring Seas, we ſhall now add ſome remarkable ones in the Reign of *Edward* III. the Originals of which are yet to be ſeen in the *Tower* of *London*; and the firſt is that King's Commiſſion to *Geofrey de Say*, Admiral of his Weſtern and Southern *Seas*, in which is this Paſſage, *We calling to Mind that our Progenitors, the Kings of* England, *have in former Times been Lords of the* Engliſh *Seas on every ſide, and defended the ſame againſt all Invaders, conſidering, that it would extreamly grieve us, if (which God forbid) our Royal Honour ſhould in any manner be impair'd, or ſhould ſuffer any Diminution of this Nature in our Time, and deſiring*, &c. Nor was the Commiſſion given at the ſame Time to *John de Norwich*, Admiral of the Northern Seas of *England*, in any manner different from that to *Geofrey de Say*. There is yet another Obſervation which may very uſefully be made upon an Action of the ſame *Edward* III. not yet ſpoken of, and that is his coining of thoſe antient Pieces of Gold call'd *Roſe-Nobles*, in which he has been imitated by ſeveral of our Kings of later Date. Upon this Piece is ſeen the Repreſentation of a Ship floating in the *Sea*, there being ſeated in the Ship, as on a Throne, a King Arm'd with a Shield, having a Royal Diadem on his Head, and a Sword in his Hand, by which, doubtleſs that Great Prince intended to denote, that the Sovereignty of the *Engliſh Seas* belong'd to him, as certainly it did; nor was it ever ſubject to a Maſter that defended it better. For King *Edward* III. is ſaid to have entertained 1100 Ships of War, ſuch as were uſual in his Time, for preſerving the Freedom of the *Engliſh Seas*. It is objected, that upon ſome Pieces of Money antiently coin'd in *France*, there were much the ſame Figures, and that alſo ſome Coins of *Zealand* bear the Repreſentation of a Lion riſing out of the *Sea*, &c. I anſwer, That as to *France* there was never any Money Coin'd there with theſe *Inſignia* of the *Sea*, &c. except ſuch as were ſtampt by the Kings of *England* while in Poſſeſſion of that Country: And as for *Zealand*, we ſhall allow, if ſhe pleaſes, her Animal riſing unnaturally out of the *Sea*, to denote the ſituation of that Iſland, but believe the Owners will ſcarce pretend, that that Piece of Money repreſents any Dominion in the *Sea*. There are innumerable other Examples, to prove that the Kings of *England* have always aſſum'd and aſcrib'd openly and overtly to themſelves, the Dominion and Sovereignty of the adjacent *Seas*, and that no Foreign Prince or State, did, till of late, pretend in any manner to infringe that Prerogative; but the Inſtances we have given,

given are ſo full, that there will be no need of adding any more to them. The Task would be endleſs, if we ſhould attempt to cite all the Paſſages out of our Lawyers, that have ſupported this Claim of the Crown of *England* to the Dominion of the *Britiſh Seas*. If this one Point univerſally known, and as univerſally acknowledg'd by all, *viz.* that in Law theſe two Phraſes, *Intra Regnum*, within the Kingdom; and *intra quatuor Maria*, within the four Seas, have one and the ſame Signification, that is, that all the Actions done within the Limits of the *Engliſh* Empire, in thoſe are deem'd to be done in *England* it ſelf. In the antient Records concerning the Cuſtom of the Admiralty, we read, it was uſual in the Time of *Henry* I. and of other Kings of *England* who reign'd about the Beginning of the 12th Century, when any Perſon accus'd of a capital Crime committed at *Sea*, after being five Times ſummon'd by the publick Crier, did not within a certain limited Time make his Appearance before the Court of Admiralty, ſuch Perſon or Perſons were baniſh'd out of *England*, and out of the *Seas* belonging to the King of *England*, for a greater or leſs Number of Years, according to the Pleaſure of the Admiral. It was alſo formerly cuſtomary to enter Actions in expreſs Terms, concerning Differences ariſing in thoſe *Seas*, in the ordinary Courts of our Common Law.

However, the Sea Province of the *Engliſh* Empire does properly belong, according to the antient and received Cuſtom of the Kingdom, to the Lord High Admiral of *England*, or his Deputies, not only with relation to its Defence and Guard, but to its Government and Juriſdiction, which the ſaid Officers have always had Cognizance of. As for the Prerogative of the Kings of *England*, in conſtituting and appointing of Naval Laws, 'tis very antient; for beſides what has been ſaid of our *Saxon* Kings, *Richard* I. ſome Years before his Death, which happen'd in the Year 1199. publiſh'd the Sea-Laws, that to this Day are famous by the Name of the Laws of *Oleron*, which Iſland he was then poſſeſt of, and 'tis ſaid by ſome Authors, he was then there. The *French*, 'tis true, as will be ſaid hereafter, pretend that his Mother Queen *Eleanor* publiſh'd them; but the *Engliſh* Hiſtorians aſcribe it to King *Richard*. And ſince the King of *England* is univerſally acknowledg'd to have been the Author of theſe Laws, which have taken Place ever ſince that Time, 'tis to be ſuppoſed his Right to give Laws was univerſally allow'd, or the making of them wou'd have been impertinent or of no Uſe. *Edward* I. preſcrib'd a Method to be obſerv'd for the more regular Execution of thoſe Laws, as we find in the Records of the Tower, *de ſuperioritate*

rioritate Maris, and in the Reign of his Grandſon *Edward* III. the Judges of *England* were conſulted, to the Intent, " That the " Form of Proceeding, formerly inſtituted by *Edward* I. and his " Council, at the Requeſt of his Subjects, might be reſum'd and " continu'd for the better retaining and preſerving the Antient " Superiority of the Seas of *England*, and the Authority of the " *Engliſh* Admiralty, in explaining and correcting the Laws and " Statutes made by his Progenitors the Kings of *England*, for the " Maintenance of Peace, and the Adminiſtration of Juſtice to all " Nations and People navigating in the *Engliſh Seas*, and the ta- " king Cognizance of all Attempts made againſt the Liberties " thereof, by puniſhing the Guilty, and awarding Satisfaction to " the Injur'd, according to the Laws and Ordinances made by the " Lord *Richard*, King of *England*, upon his Return from the Holy " Land, and declar'd and publiſhed in the aforeſaid Iſland of *Ole-* " *ron*. Which Record proves ſufficiently by whom, and where the Laws bearing the Name of that Iſland were publiſh'd.

The Officers appointed by the Kings of *England*, for the Management of Maritime Affairs, were the *Butſecarli*, who were ſometimes call'd *Guardians of the Navy*, and ſometimes *Guardians of the Sea*. In the Time of *Henry* III. Authority to guard the Eaſtern *Sea* and *Shoar* was given to *Thonron de Moleton*, with the Title of Captain and Guardian of the *Sea*, *Rot. Parl.* 48. *Henry* III. *Part* 1. *Memb.* 3. and *Rot. Clauſ.* 48. *Henry* III. *Memb.* 3. In the ſame Prince's Reign, *Hugh de Crequeur* is ſtil'd Warden of the Cinque Ports, and of the *Sea* in thoſe Parts. After him, in the Year 1292. *Edward* I. dividing his Fleet into three Squadrons, gave the Three Officers commanding them, the Name of Admiral, and the like Command and Character was given to three other ſuch Officers, in the Time of his Son and Succeſſor *Edward* II. which Prince being likewiſe ſucceeded by his Son *Edward* III. In his Reign a Parliament was called *to provide for the Peace and Security of the Realm by Land and Sea*. In the Time of *Richard* II. *Hugh Calverlee* was made Admiral of the *Sea*, and ſo others, as will appear by the Liſt printed in this Treatiſe; by which, 'tis plain, Proviſion was no leſs punctually made by the Kings and Parliaments of *England* for the Defence of the *Sea*, than for the Support of the Government by *Land*, and of what Nature the Commiſſions granted to thoſe Admirals were, may be ſeen by the Form of them, yet extant, of which we have tranſcrib'd as much as is neceſſary to expreſs the Extent of their Juriſdiction in thoſe Days.

We

We give and grant to N. *the Office of our Great Admiral of* England, Ireland *and* Wales, *and of the Dominions and Iſlands belonging to the ſame; alſo of our Town of* Calais, *and our Marſhes thereof,* Normandy, Gaſcoigne *and* Aquitain: *And we made, appointed and ordained, and by theſe Preſents we make, appoint and ordain him the ſaid* N. *our Admiral of* England, Ireland *and* Wales, *and our Dominions and Iſles of the ſame, our Town of* Calais, *and our Marſhes thereof,* Normandy, Gaſcoigne *and* Aquitain: *As alſo General Governour over all our Fleets and Seas of our ſaid Kingdoms of* England *and* Ireland, *our Dominions and Iſlands belonging to the ſame. And know ye further, that of our ſpecial Grace, and upon certain Knowledge,* &c. *We give and grant unto the ſaid* N. *Our Great Admiral of* England, *and Governour General over our Fleets and Seas aforeſaid, all manner of Juriſdictions, Authorities, Liberties, Offices, Fees, Profits, Duties, Emoluments, Wrecks of the Sea, Sentiments, Regards, Advantages, Commodities, Preheminences and Privileges whatſoever,* &c. King *Edward* VI. in the Third Year of his Reign, granted a Commiſſion to *John* Earl of *Warwick*, his Admiral, wherein he calls him, *Our Admiral of* England, Ireland, Wales, Calais, Boulogne, *and Marſhes of the ſame; and of* Normandy, Gaſcoigne *and* Aquitain, *as alſo Governour General of all our Fleets and Seas.* From theſe Forms of the Commiſſions of our *Engliſh* Admirals for ſeveral Ages paſt, we ſhall only infer, that the Coaſts of the Tranſmarine Provinces mention'd in the ſaid Commiſſion, are only inſerted to denote the Extent and Limits of the Sea that is thereby committed to their Charge and Protection: For either the Names of the Provinces of *France* inſerted in theſe Commiſſions, muſt ſignify ſomething or nothing. 'Tis ridiculous to ſuppoſe they ſignify nothing, and if they denote any thing, it muſt be the Bounds of our Admirals Juriſdiction, for the following Reaſon.

I. It cannot be imagin'd the Names of theſe Provinces are there inſerted in Conſequence of our King's Pretenſions to the Crown of *France*; for then they would have given their Admirals the Title of Admirals of *England*, *France*, &c. Beſides, the *Engliſh* were driven out of *France*, except *Calais*, and the *Engliſh Pale* in *Picardy*, before the Names of any of theſe Provinces, *Aquitain* only excepted, were mention'd in the Admirals of *England*'s Commiſſions: By which it appears,

II. That the Kings of *England* only added the Names of thoſe Provinces in their Admirals Commiſſions, for the better Diſtinction

on of their Bounds: For while they poſſeſt the Maritime Provinces of *France*, there was no Neceſſity of mentioning them in their Commiſſions, becauſe the Dominion of thoſe *Seas* belonged to them as Kings of *England*, and not as Dukes of *Normandy*, *Aquitain*, &c. But having been diſpoſſeſt of theſe, by adding them afterwards, as Bounds of the Juriſdiction of their Admirals, they intended to prevent all Differences about the Extent of their antient Dominion, as Kings of *England* in the *Sea*.

It appears by the Libel before mention'd, preſented to the Commiſſioners appointed by *Edward* I. and *Philip* the Fair of *France*, to determine certain Maritime Differences, that by the Conſent of all the *Trading* Nations in *Europe*, *the Kings of England had then been in peaceable Poſſeſſion of the Dominion of the Sea*, by immemorial Preſcription, *that the* Sovereignty *of the Sea belongs to them, not becauſe they were* Domini utriuſq; Ripæ *when they had both* England *and* Normandy, and were Lords of both Shoars: For *Edward* I. at that Time had not *Normandy*, but that it is inſeparably appendant to the Kingdom of *England*. Our Kings being *Superior Lords of the ſaid Seas*, by reaſon, as the very Record mentions, *of the ſaid Kingdom*; and ſince the *Sovereignty* of the *Sea* did always belong to the King of *England*, not in any other Right than that of the *Kingdom*, no *Prince* or *Republick* ought or can doubt the Title by which our preſent Claim is deduced.

See the Caſe, 27 Eliz. in B.R. Sir John Conſtables, Leonard 3. Part. 72.

It is objected, that Admirals were eſtabliſh'd many Centuries ago in *France*, as well as in *England*. It muſt be prov'd, that they had the ſame Power as the *Engliſh* had, whereas 'tis very evident, thoſe Officers were at firſt only Occaſional Commanders of Naval Forces on certain Expeditions; and ſo far were they from pretending to any real Juriſdiction in the *Sea* it ſelf, as belonging to the Crown of *France*, that they were in antient Times for the moſt part Foreigners and Mercenaries, hir'd for ſome preſent Service, for which we ſhall give you a very unſuſpected Teſtimony, that of *Joannes Tillius*, a Clerk of the Parliament of *Paris*, who in his 2d Book *de Rebus Gallicis*, ſays, *The Kingdom of* France *having been leſſen'd by inteſtine Diviſions, and its Kings reduc'd to narrow Dominions by their potent Vaſſals* (ſuch as the Kings of *England*, who poſſeſt *Normandy*, *Aquitain*, and other Countries, the Dukes of *Bretagne*, the Earls of *Flanders*, *Provence* and *Languedoc*) *having for a long Time no Command in the Sea, had conſequently no Occaſion for Admirals, till they undertook the Expedition for the* Holy Land, *in which they made Uſe of Mercenaries, whom they hir'd of the* Genoeſe, Spaniards, *and other Maritime Nations, expert in the Art of Navigation, with whom they agreed for the Tranſ-*

Tranſportation of their Forces, &c. Which appears to be very true by the Liſt of *French* Admirals, where *Engerenæus Conceus*, is the firſt that is ſaid to have enjoy'd that Dignity, which was conferr'd upon him, according to *Joannes Feronius*, by *Philip* the Bold, King of *France*, about the Year 1280. *Joannes Tillius* makes the Inſtitution of that Office of a later Date; for according to him, *Amaurius* Viſcount of *Narbonne*, was firſt made Admiral of *France*, about the Year 1300. Nor do the Edicts and Decrees of *Charles* V. and VI. *Lewis* XII. *Francis* I. *Henry* II. and III. and other *French* Kings, concerning Marine Affairs and the Admiralty, ſeem to relate to any Thing but to the Goods and Perſons of the Subjects of the Crown of *France*, and of the Enemies taken in Time of War by them: For tho' the Admirals of *France* be therein ſtil'd, *Our Lieutenant-General throughout the Sea and the Shoars thereof*; that Lieutenant-General, as they call him, never had any Command over any Part of the *Sea* flowing between *Britain* and *France*, as a Province or Dominion belonging to his Maſter, the King of *France*, but only over the Ships and Naval Forces of the ſaid King paſſing through the *Britiſh Seas*, much in the ſame manner that any Sovereign Prince commands and governs the Perſons belonging to his own Retinue, tho' in a foreign Country, but without pretending to have any Juriſdiction out of his own Family in that Territory. As to the *French* Kings having at the Beginning been in Poſſeſſion of *Normandy*, *Picardy*, and *Flanders*, beſides that their Kingdom was for a long Time diſpoſſeſt of 'em, the Poſſeſſion of the Shoar, as we have already remark'd out of *Grotius*, gives no Title to the Dominion of the *Sea* flowing before it. And *Julius Pacius*, de Domin. Maris Adriatici, writes, *The Right to the Sea ariſes not from the Poſſeſſion of the Shoars; for the Sea and Land make diſtinct Territories. It is no more neceſſary that every Sea Town ſhould command* 100 *Miles at Sea, than that each City ſhould command* 100 *Miles by Land.* By the *Laws* of *England*, the *Land* is call'd the *Realm*, but the *Sea* the *Dominion*, and as the Loſs of one Province does not infer that the Prince muſt reſign up the reſt; ſo the Loſs of the *Land* Territory does not by Concomitancy argue the Loſs of the adjacent *Seas*. It appears further, that the Office of Admiral was at firſt occaſional in *France*; for that though all the Great Officers of the Crown, as the Conſtable, Maſter of the Houſe, Great Maſter of the Houſhold, and others, have each their particular Station in the Parliament of *Paris*, yet it was poſitively denied in the Time of *Henry* II. to *Gaſpar de Coligni*, Admiral of *France*. *Henry* of *Montmerancy* ſeem'd to be convinc'd of the *French* Admirals nar-

narrow Juriſdiction, when in the Year 1612. cauſing a Statue to be erected at *Chantilly*, in Honour of his Father the Duke of *Montmerancy*, he ſtiles himſelf only in the Inſcription, *Navalis Militiæ Magiſter*, or *General of the Militia by Sea*, he being Admiral of *France*. The Poſſeſſion of the Iſlands of *Guernſey*, *Jerſey*, and ſome other Iſles on the Coaſts of *Normandy* by the Kings of *England*, is made uſe of as an Argument to prove the Extent of their Dominion over the Channel, and that thoſe Iſlands do not belong to them as an Appendant or Remainder of the Dutchy of *Normandy*, will appear by ſeveral Treaties between the Kings of *England* and other Princes; in which thoſe Iſles are ſpoken of as belonging to the Crown of *England*: And in the Grant made of them by King *Henry* V. to his Brother, *John* Duke of *Bedford*, that Prince was to enjoy the Sovereignty of them, *without any Recognition to be made to that King, or his Heirs, notwithſtanding any Prerogative of the Crown for any other Tenure held of him out of the ſaid Iſlands, which may in any manner belong to the ſaid Iſlands, Caſtle or Dominions.* And beſides, 'tis certain, that *Henry* Duke of *Warwick*, was by *Henry* VI. made King of thoſe Iſlands, and of the Iſle of *Wight*. Now it is not probable that Prince would have erected them into a Kingdom, if he had not poſſeſt them by a Title ſuperior to that of an Appendant of the Dutchy of *Normandy*. Our Kings have frequently forbidden Hoſtilities between Foreigners at War with one another, within ſuch Diſtances from the Ports and Harbours of thoſe Iſlands, as to them ſeem'd convenient; and we ſhall ſee by a Patent granted by *Edward* VI. to the Inhabitants of *Jerſey*, that he gave them the Privileges contain'd in it, from no other Principle, than as he was Maſter of the *Britiſh* Seas. This Patent was confirmed by Queen *Elizabeth* and King *James* I. By which *all Merchants, Natives or Strangers, and Enemies as well as Friends, are allowed*, in Time of War, *freely, lawfully and ſecurely, to ſail into and about, and frequent the ſaid Iſland, and the Coaſts thereof, with their Ships and Goods, as well for Shelter againſt foul Weather, as upon any other Lawful Occaſions, and there to uſe free Traffick and Commerce, and to abide with all Security and Safety, and to come thence and return thither at Pleaſure*, &c. This Dominion of the Iſles on the Coaſts of *Normandy*, and all the Iſlands within the Extent of the *Britiſh* Sea, is no inconſiderable Proof of the Kings of *England*'s Sovereignty over them.

We come now to prove, that they had always a Right of impoſing Tributes, for the Protection by them given to Foreigners within their Seas, of which a great many remarkable Inſtances might

might be given; but we ſhall only inſert the following Abſtract of the Records of Parliament, as it may be ſeen in the Original, *Norman Rot. Parl.* 2. *Rich.* 2. *Article* 38. *in Schedula*; of which the following Articles are a juſt Tranſlation.

The Merchants of *London* having been conſulted by the Earl of *Northumberland* and the Mayor of *London*, about the proper Methods for the Guard and Defence of the *Northern Engliſh Seas*; it was reſolv'd by the Commons in Parliament, That that Sea ſhould be guarded by two Men of War, Two Barks, and Two Ballingers arm'd for War, and exact of all Ships as follows;

I. Of all Ships and Barks of what Burthen ſoever, (except Ships bringing Goods from *Flanders* to *London*, or carrying Wool or Skins from *London* to *Calais*, which were alſo to pay for their Convoy, if they requir'd any) paſſing through the ſaid Sea, for the Voyage going and returning, 6 *d. per* Tun.

II. Of all Fiſher-Boats fiſhing in that Sea for Herrings, 6 *d.* a Week *per* Tun.

III. Of all Ships or Boats fiſhing there for other ſorts of Fiſh, 6 *d. per* Tun every Three Weeks.

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V. Of all other Ships and Veſſels Trading with *Pruſſia*, *Norway*, or any other of thoſe Parts beyond Sea, for the Voyage going and returning, 6 *d. per* Tun.

Nor have the Kings of *England* been contented wtih exacting Tribute, as the ſole Acknowledgment of their Dominion in the *Britiſh* Seas: They always oblig'd all Foreigners paſſing through their Seas, to pay them ſuch other Homages, and Tokens of Submiſſion, as are ſufficient to prove they acquieſce in the Lawfulneſs of their Title to that Dominion. It was ever accounted Treaſon for any Ship of any Nation whatſoever, to refuſe to acknowledge the Sovereignty of the Kings of *England*, by ſtriking their Colours, lowering their Top-ſails, *&c.* or performing ſuch other Ceremonies as have been requir'd by the Admirals or Captains of any of the Kings Navies or Ships meeting with Foreigners at Sea; and ſuch as refuſe ſo to do, forfeit *ipſo facto*, by that Refuſal, all the Privi-

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leges and Rights to which they might otherwiſe be entituled as Allies, and are puniſhable by the King of *England*, or his Admirals, in the ſame manner as if they had committed a Crime within the Juriſdiction of his Territories by Land. Theſe Ceremonies, as we have ſhewn in the foregoing Pages, have been for many Ages exacted by the *Engliſh* Kings, with all imaginable Rigour. By an Article of the Offenſive and Defenſive League concluded between the *French* and *Dutch* Anno 1635. 'twas agreed, *That if at any Time the* Dutch *Fleet (which according to the* League *was to ſcour the* French *Coaſt in the* Mediterranean *from Pyrates) ſhou'd meet with the* French *Fleet, the* Dutch *Admiral ſhou'd at his firſt Approach to the* French, *ſtrike his Colours, and lower his Top-ſail, and afterwards ſalute the* French *Admiral with Guns; which Salutation the* French *Admiral was to return with Guns only.* But even the Duty of the Flag there claimed by the *French* in the *Mediterranean*, is vaſtly inferior to that due to the *Engliſh* on their *Seas*; the firſt being only a bare Token of Reſpect, the Refuſal of which cou'd at moſt amount to no more than a Breach of the League; whereas the Homage paid to the *Engliſh* being a real and fundamental Prerogative of the Crown, the Contempt of it is, as has been ſaid, deem'd to be open Rebellion, and the Contemners may lawfully be invaded in a Hoſtile manner, according to the Orders and Inſtructions that are given to the Admirals and Commanders of the *Engliſh* Navies and Ships.

Leo ab Aitzma Hiſt. Tract. Pacis Belg. pag. 177. *Edit. Lugd. Batav.* 4. 1054.

Another Point of the Sovereignty of the Kings of *England* to the Dominion of their *Seas*, is the Practice very much us'd of old by 'em, to extend their Embargoes all over the *Engliſh* Seas, and ſeize foreign Ships paſſing there, as well as if they had been within their own Harbours, and employing them in their own Service, as will appear by the following Mandate, iſſued out by King *John* to this purpoſe.

THE King to all the Sturemanni (Sea-Captains and Officers) and Marinelli (Marines, or Sea-Soldiers) and Merchants of England *uſing the Sea, Greeting: Know ye, that we have ſent* Alanus Juvo *of* Sorham, Walter Staltun, Vincent *of* Haſtings, *and* Wimund *of* Winchelſea, *with others of our Barons of the Cinque-Ports,* &c. *four faithful Sturemanni and Marinelli of our Gallies, to arreſt, and ſafely bring into* England, *all Ships that they can find, with all that ſhall be found in them: And therefore we Command you to be Aiding to them in this Buſineſs, ſo that ye be in* England *with your Ships and Goods at ſuch Ports as they ſhall appoint: And if any ſhall attempt to reſiſt them contrary to our Command, ye our*

Liege

Liege Men are required to aſſiſt them with all your Power, as you tender your ſelves and your Chattels, and your Quiet and Reſidence, and that of all your Kindred within our Dominions.

Much the ſame Order was given by *Edward* III. to *Thomas de Wenlock*, Vice-Admiral of his Weſtern Fleet, to ſeize and arreſt all Ships for his immediate Service. However, a competent Hire was always allow'd for Ships ſo impreſt, according to their Burthen, and the Number of their Hands.

That it was cuſtomary for the Kings of *England* to grant Paſsports or ſafe Conducts to ſuch Foreigners as deſir'd Liberty to paſs through their Seas, may be ſufficiently prov'd out of the Records of Parliament, where will be found the conditional Clauſe of ſuch Paſs-ports, *That they Perſons which had obtained them, ſhould not convey, or cauſe any thing to be convey'd, nor in any manner relieve, nor impart any thing to the King's Enemies in* France. And in *Edward* I's Time 'twas always a peculiar Injunction laid upon his Sea-Commanders, *That they ſhou'd take a ſpecial Care to vindicate and maintain the Sovereignty which his Predeceſſors the Kings of* England *were wont to have in the* Sea, *concerning the Explication and Amendment of the Laws which had been by them inſtituted for the Government of all Nations and People Navigating in the* Engliſh *Seas:* Than which nothing can more demonſtrate, that they poſſeſt the Dominion of them. In a Paſs-port granted by *Henry* IV. of *England*, to *Ferrando Urtis de Sarachione*, a *Spaniard*, that King permits him to *ſail freely from the Port of* London *through his Kingdoms, Dominions and Juriſdictions, to the Town of* Rochelle. And what can be meant by Dominions and Juriſdictions here, but thoſe of the Seas flowing between *London* and *Rochelle*? And the Ambaſſadors of *Charles* VI. of *France*, and *Robert* III. of *Scotland*, in the Paſs-ports they obtain'd of the ſame King *Henry*, are therein allow'd free Paſſage through all the Places, Territories and Dominions under his Power by Sea as well as by Land: Whereas the Paſs-ports granted by ſeveral Kings of *France* to the Ambaſſadors of the Kings of *England*, only run thus,

P—— *by the Grace of God King of* France, *to all our Governours and Subjects, Greeting*, &c.

The Reaſon of which muſt certainly be this, That the King of *England* being himſelf *Lord* of the *Sea*, there was no Neceſſity that the Kings of *France* ſhou'd ſecure them within the Bounds of their own Juriſdiction, which *John* King of *Sweden* ſeems very well to

underſtand, when in his Letter to Queen *Elizabeth* in the Year 1587. he deſires Leave for *Olaus Wormæus* (one of his Subjects) to paſs through her Majeſty's *Sea Dominions* to carry ſome Merchandiſe into *Spain*.

The *Hamburghers* and the *Hanſe* Towns petition'd for Licenſe to tranſport Corn thither about the ſame Time, and were poſitively forbidden, being told plainly, *That ſuch as ſhould preſume to go beyond a former Licenſe, ſhould for that bold Preſumption ſuffer the Loſs of all their Goods and Effects, in caſe they fell into the Hands of any of her Majeſty's Ships of War or others.* *Witfeldius* and *Bernſcovius*, Ambaſſadors from *Chriſtiern* IV. King of *Denmark*, deſiring the ſame Liberty of tranſporting Corn to *Spain* by Order from their Maſter, were anſwer'd, *That her Majeſty could by no means conſent to the King of* Denmark's *Demands; neither wou'd ſhe grant ſuch a liberty to her own Subjects, or any elſe, till the War between her and the* Spaniards *was at an end.* If Queen *Elizabeth* was not Sovereign of the *Engliſh Seas*, why did ſo many States humbly requeſt her for Privileges, which ſhe had no Right to grant or refuſe? The frequent Applications that have been made by Foreign Potentates for obtaining Liberty to fiſh in the *Engliſh Seas*, and the Conditions upon which that has been granted, are other Proofs of the Lawfulneſs of the *Engliſh* Dominion in them.

June 30. *Anno* 1598.

Mention has already been made of the Tribute impos'd upon Fiſhermen in the *Engliſh* Seas in the Time of *Richard* II. and in the *Iriſh* Seas in the Reign of *Edward* IV. to which we ſhall now add ſome notable Inſtances of the ſame Nature. We find in the *Rolls* of Parliament in the Reign of King *Edward* I. a Protection was granted by that Prince for the Men of *Holland*, &c. to this purpoſe.

THE *King to his truſty and well-beloved* John de Buteturbe, *Warden of the Port of* Jernemouth, *greeting: Being inform'd that Men of* Holland, Zealand, *and* Frizeland, *who are now in Amity with us, deſign to come and fiſh in our Sea near* Jernemouth, *We require you to cauſe publick Proclamation to be made once or twice a Week, forbidding all manner of Perſons whatſoever employ'd in our Service, to preſume to do or cauſe to be done to theſe Men, any Injury or Damage*, &c.

The Records are full of ſuch Protections in the Reigns of that King's Succeſſors *Edward* II. *Edward* III. *Richard* II. *Henry* IV. *Henry* V. and *Henry* VI. the laſt of whom, as appears by *Rot. Francie* 38. *Henry* VI. *Mem.* 9. and 14. did frequently give *Licenſes*,

cenſes, eſpecially to the *French*, to fiſh in his *Seas*, preſcribing a certain Time, as well as the *Size* of the Boats, they or others were to fiſh in. So Jealous have our Princes always been of this Prerogative, that *Edward* VI. appointed *Cuſtodes*, *Conductores* and *Waſtores*, Guardians, Conductors and Waſters, with a ſpecial Power to protect the Fiſhermen upon the Coaſt of *Suffolk*; for which Protection a Tribute was levy'd on the *Fiſhers* according to their Burthen. The Words of their Commiſſion will ſhew us what their Office was: They had Power *to Raiſe and Collect all Coſts, Charges, and Expences; to Arreſt and Apprehend all Perſons who ſhou'd pretend to Protect, Conduct or Waſte the Fiſhermen, and to commit them to the next Goal, there to be kept ſecurely till the King ſhould be pleas'd to take Order for their Delivery.* And in the Patents of that Nature granted by *Richard* III. and *Henry* VII. theſe Officers were impower'd to exact this Tribute, *Even tho' any one or more of the ſaid Fiſhermen may have obtained Letters of ſafe Conduct from any other King, Prince, Potentate or Governour whatſoever.* Queen *Mary* I. being married to *Philip* II. of *Spain*, granted for a Fine and a yearly Revenue of 1000 *l.* to be paid into the Treaſury of *Ireland*, a general Licenſe for the *Netherlanders* to fiſh on the Northern Parts of that Kingdom. Mr. *Cambden* in his *Britannia*, ſpeaking of the Northern Sea which waſhes the Coaſts of *Yorkſhire*, writes, *The* Hollanders *and* Zealanders *firſt obtaining Leave, according to the ancient Cuſtom, of the Governour of* Scarborough *Caſtle, made a very plentiful and advantageous Herring-fiſhing: The* Engliſh *reſerving only the Honour and Privilege to themſelves, have by a very condemnable Negligence always reſign'd the Profit to Strangers.* This Liberty of Fiſhing in the *Engliſh* Seas, has been always ask'd by Strangers, and particularly by the *French*, tho' they would gladly uſurp a Share of the Marine Sovereignty, if they had Power to maintain it. *Henry* IV. of *France* his Admirals uſually ask'd of Queen *Elizabeth*, *Licenſes* for the *French* Fiſhermen to fiſh in the Neighbouring *Seas* for *Soles* for that Prince's own Table.

The *Engliſh* do not pretend that their Kings were Sovereigns of the *Caledonian* and *Deucaledonian* Seas, till the Kingdom of *Scotland* was united to that of *England* under *James* I. Tho' the ancient *Scots* enjoy'd without any Competitors, the Sovereignty of the greateſt part of the Seas with which their Shoars are waſh'd, they had for many Ages together a continual Controverſie with their Neighbours the *Danes* and *Norwegians*, about the more Northerly Parts of the *Caledonian* Sea, to the Poſſeſſion of which they all pretended; and in the main, the Government of thoſe

Seas

Seas did for the moſt part accompany the Sovereignty of the *Orcades*, and other Iſlands ſituate in them, which after many Revolutions and Changes of Maſters, did at laſt devolve upon the Kings and Queens of *Scotland*, who have peaceably poſſeſt them a long Time. For about the Year 1468. *Chriſtiern* King of *Denmark* ſurrendred the *Orcades* and *Shetland* to *James* III. King of *Scotland*, who had marry'd his Daughter *Margaret*, and reſign'd his Right to thoſe Iſles to him and his Heirs for ever. By which Surrender and Reſignation the *Scots* Kings became poſſeſt of the Sovereignty of the Northern Sea in which they are ſituate, as well as of the Iſles. Nor have the *Scots* neglected on ſeveral Occaſions to aſſert their Dominion of the adjacent *Seas*. Mr. *Welwood*, an Eminent Lawyer of that Nation, in a Treatiſe he wrote of the *Dominion of the Sea*, takes notice of a Quarrel that had happen'd between the *Dutch* and the *Scots* about the Propriety of the Sea, which at laſt was compos'd on the following Conditions. "That "the *Dutch* Fiſher-Boats ſhou'd not come within 80 Miles of the "Shoar, and that in caſe they ſhould be driven in thither by Streſs "of Weather, they ſhould pay a certain Tribute at the Port of "*Aberdeen*, where a Caſtle was built and fortify'd chiefly on that "Occaſion, and the *Dutch* for ſome time did really and effectual-"ly pay that Tribute, *&c.*" In a Parliament held in the Sixth Year of the Reign of *Mary* Queen of *Scotland*, that Dominion was again aſſerted, and all Foreigners were expreſly forbidden to fiſh within the Extent of the *Scottiſh* Seas without Licence. King *James* VI. of *Scotland*, and Firſt of *Great Britain*, had that Act confirm'd and enlarg'd. "And all Fiſhers or other Perſons whatſo-"ever occupying the *Scottiſh Sea*, and Fiſhing for Herrings or "White Fiſh, were enjoyn'd to bring the ſame to be ſold at free "Ports within the Kingdom of *Scotland*, that his Majeſty and his "Subjects might not be depriv'd of the Advantages and Emolu-"ments which God had appointed for them." Since the Union of the Crowns of *England* and *Scotland*, the Sovereignty of the *Scottiſh* Sea, and the other Seas with it, which we have ſpoken of in ſpeaking of the Extent of the *Britiſh Seas*, devolv'd upon the Kings and Queens of *Great Britain*. And we ſhall in the Courſe of this Treatiſe obſerve how they have been careful to aſſert and maintain it.

But we muſt firſt take notice, that the *Engliſh* had great Privileges and Immunities in the Northern Seas granted them by the Kings of *Denmark* and *Norway*, who had at firſt excluded them from all Commerce and Traffick in ſome Parts of them. At laſt it was agreed by a Treaty made in the Year 1485. between *Henry* VII. and

and *John* II. Kings of *England* and *Norway*, that the *Engliſh* ſhou'd for ever enjoy the Liberty of Fiſhing, Trading and Sailing ſafely and ſecurely to *Ireland*, called in the Treaty, the Iſland of *Tyle*, and of Buying, Selling and Merchandiſing in thoſe Seas, upon Payment of the ordinary Duties of the Ports; provided, that by Petitioning for ſuch Liberty once in ſeven Years, they acknowledg'd the Sovereignty of the Kings of *Norway* in thoſe Seas. Thus we find the Dominion of the Sea is not only capable of being poſſeſt, but that other Princes beſides the Kings of *England*, have claim'd and enjoy'd it. *Frederick* II. King of *Denmark* and *Norway*, in a Letter to Queen *Elizabeth* in the Year 1585. ſays, *That if the* Engliſh *abſtain from doing any Injury, they ſhould enjoy their former Liberties and Privileges without Petitioning any more for Licenſes.* This Privilege depended on the Good Will of the Sovereign of thoſe Seas at firſt, but having been long enjoy'd, the *Engliſh* pleaded a Right to it by Preſcription. 'Tis certain however, they have a better Title to the Dominion of the Northern Sea towards the Coaſts of *Greenland:* For their *Muſcovy* Company firſt acquir'd a Right to that Sea by actual Occupation; their Mariners being the Diſcoverers of it; and their Fiſhers improv'd the Whale Fiſhing. An actual Poſſeſſion is much more ſufficient than an intentional Poſſeſſion to veſt the Diſcoverers with a Title to the Propriety of the Thing ſo diſcover'd: Of which King *James* I. ſeem'd very ſenſible, when in his Letters of Credence given to Sir *Henry Wooton*, his Ambaſſador to the States General of the United Provinces, he ſays, That the Fiſhings in the Northern Seas towards the Coaſts of *Greenland*, were acquir'd by Right for him and his only. Notwithſtanding which, 'tis moſt true, that the *Hollanders* have been too Unfriendly in Invading the *Britiſh* Fiſheries, not only on the Northern Ocean, but even on the Coaſts of *Great Britain.*

To return to our Subject, if we have digreſt from it, in treating of the *Engliſh* Rights and Privileges in the Northern Seas, we muſt now obſerve how the Kings and Queens of *Great Britain* have aſſerted the Dominion of the *Britiſh* Seas, ſince the Union of the two Crowns of *England* and *Scotland.*

When King *James* I. ſucceeded to the Kingdom of *England*, the Nations of *Europe* were almoſt all in profound Peace, except the *Dutch* and *Spaniards.* The Quiet of the *Engliſh* Seas was in ſome meaſure diſturb'd by the frequent Hoſtilities that happen'd between the *Spaniards* and *Dutch*; upon which he publiſh'd a Proclamation, forbidding (as Lord of thoſe Seas) any ſort of Injury or Violence to be

be offer'd by either Party, within certain Limits which he appointed, as may be ſeen by the Proclamation it ſelf.

OUR Pleaſure is, That within our Ports, Havens, Roads, Creeks or other Places of our Dominion, or ſo near to any of our ſaid Ports and Havens, as may be reaſonably conſtrued to be within that Title, Limit or Precinct, there ſhall be no Force, Violence or Offence ſuffer'd to be done, either from Man of War to Man of War, or Man of War to Merchant, or Merchant to Merchant, of either Party, &c.

And tho' that Proclamation did only prohibit the committing of Hoſtilities within or near certain Creeks, Bays, Ports and Harbours, (which were call'd the King's *Chambers*, ſome of which took in Thirty Leagues of the Sea) no Inference can be brought thence to deſtroy that Prince's Title to the Sovereignty of the more diſtant Parts of the *Engliſh* Sea: For he allows the two Nations at War between themſelves (but both at Peace with him) to invade, attack and make Prize of one another in the open Sea: Nor did the *Spaniards* make any ſcruple to claim the King of *England*'s Protection againſt their Enemies the *Dutch*, and all others whatſoever, not only within the Seas above-mention'd, but all over the *Engliſh* Seas, which they look'd upon to be as much a Part of his Dominions as the *Land*, as appears by the Diſcourſe of their Advocate here, who pleads it in expreſs Terms, adding, *That towards the North and Weſt the Kings of* Great Britain's *Sea-Dominions were of a vaſt Extent; for that the Northern Coaſt of* Britain *having no oppoſite Shoar, their Sea-Juriſdiction that Way had no Limits, and the South of* Ireland *lying oppoſite to* Spain, *and the Weſt to the* Indian *Countries belonging to that Crown, were conſequently bounded by them.* So far did the *Spaniſh* Lawyer make the Dominion of our Kings extend. Whether he has extended it too far or not, we ſhall not undertake to determine, but make no Difficulty to affirm, the *Hollanders* have of all Nations been too free with the *Engliſh* on this Occaſion, and encroach'd too much on our Marine Sovereignty. And this is ſaid without any Deſign to revive old Quarrels, or to make any Man out of Humour with that Mighty State, who has appear'd ſo boldly for the Cauſe of Liberty, and are now in ſo ſtrict an Alliance with *England*. All that we would inſinuate by what we have ſaid, or ſhall ſay, is, That we have the Right on our ſide, and cannot doubt but conſidering the Intereſts of *England* and *Holland* are inſeparable, they will leave no Cauſe of Diſcontent to a People with whom they

they have exchang'd the higheſt Obligations; and who having in every thing ſhew'd their Readineſs to ſerve and defend them, may without injuring the Friendſhip that has been ſo firmly eſtabliſh'd, expect to be left in Poſſeſſion of all their ancient and undoubted Rights. *Hugo Grotius*, who afterwards endeavour'd to deſtroy the Title of the Kings of *Great Britain* to the Sovereignty of the *Sea*, ſeem'd in a Poem he wrote on King *James*'s Inauguration in the Kingdom of *England*, to acknowledge his *Britiſh* Majeſty's Dominion in the Seas belonging to all his Three Kingdoms, when he ſays,

† ——— *Tria Sceptra profundi*
In magnum coiere Ducem.

† *Sylvarum, Lib.* 2.

And then addreſſing himſelf to the Sea, which is ſuppos'd to receive its Motion from the Moon, he ſays,

Sume Animos à Rege tuo, meliore levatus
Sydere, nec cela Populos quocunque latentes
Sole, per immenſum quem circumvolveris Orbem,
Quis det Jura Mari. ———

And again,

——— *Rerum Natura Creatrix*
Diviſit Populos, & Metas ipſa notavit,
Sic Juga Pirena, ſic olim Rhenus & Alpes
Imperiis Menſura fuit, &c.
——— *Qua Meta Britannis*
Littora ſunt aliis, Regnique acceſſio tanti eſt,
Quod Ventis Veliſque patet. ———

But tho' he was afterwards pleas'd to alter his Mind; yet King *James* ſtill kept his, which was to vindicate that Dominion which had been left him by his Anceſtors, and of none was he more Jealous, notwithſtanding his Forbearance with the *Dutch* and others, than of the Sovereignty of the Sea, as may be ſeen by a Proclamation he put forth in the Year 1609. wherein we find theſe Words.

" Whereas we have been contented ſince our coming to the " Crown, to tolerate an indifferent and promiſcuous kind of Li- " berty to all our Friends whatſoever, to fiſh within our Streams,

" and upon any of our Coaſts of *Great Britain*, *Ireland*, and other " adjacent Iſlands, ſo far forth as the Permiſſion or Uſe thereof " might not redound to the Impeachment of our Prerogative Royal, " nor to the Hurt and Damage of our loving Subjects, *&c.* find- " ing our Continuance herein hath not only given Occaſion of over " great Encroachments upon our Regalities, or rather queſtioning " of our Right, but hath been a Means of daily Wrongs to our " own People that exerciſe the Trade of Fiſhing, *&c.* which is a " Matter of great Conſequence to our Eſtate, conſidering how " much the Strength thereof conſiſteth in the Power of Shipping " and Uſe of Navigation. We have thought it now both juſt and " neceſſary (in reſpect that we are now by God's Favour, lineally " and lawfully poſſeſt, as well of the Iſland of *Great Britain* as " of *Ireland*, and the reſt of the Iſles adjacent) to bethink our " ſelves of good and lawful means to prevent thoſe Inconvenien- " cies, and many others depending upon the ſame; In conſidera- " tion whereof, *&c.* we have reſolv'd firſt to give notice to all " the World, that our expreſs Pleaſure is, That from the Begin- " ning of the Month of *Auguſt* next coming, no Perſon of what " Nation or Quality ſoever, being not our Natural born Subject, " be permitted to fiſh upon any of our Coaſts and Seas of *Great* " *Britain*, *Ireland*, and the reſt of the Iſles adjacent, *&c.* until " they have orderly demanded and obtain'd Licenſes from us, *&c.* " upon Pain of ſuch Chaſtiſement as ſhall be thought fit to be in- " flicted upon wilful Offenders. "

The *Dutch* got too much by their Fiſhings on our Coaſt, to be frightned with a Proclamation; and this Pacifick King had no great Inclination to any harſher Methods than what Words would effect. The *Hollanders* knowing his Temper, preſum'd upon it ſo far as to plead *Immemorial Poſſeſſion*. Upon which King *James* commanded his Ambaſſador at the *Hague*, to give the States General to underſtand that he expected other Satisfaction, with reference to the Fiſhings. And indeed the *Dutch* dealt with him ſo unfairly in that Matter, that a Prince of more Martial Temper, wou'd have been provok'd to a Rupture; but Negotiations were King *James*'s beloved way of concluding Affairs, and a long one commenc'd about this; In which at leaſt we ſhall ſee what was ſaid by the *Engliſh* on this Subject. We begin therefore with an Abſtract of a Letter written by the Secretary of State in *England*, to the *Engliſh* Ambaſſador at the *Hague*, Dated *Decemb.* 21, 1618. As to their claiming an Immemorial Poſſeſſion founded by the Law of Nations, his Majeſty will have them told, " That the

" Kings

" Kings of *Spain* have ſought Leave to fiſh there (the *Britiſh* Seas) " by Treaty from this Crown, and that the King of *France* (a near- " er Neighbour to our Coaſt than they) to this Day requeſts " Leave for a few Veſſels to fiſh for Proviſion for his own Houſ- " hold, and that it appears ſo much the more ſtrange to his Ma- " jeſty, that they being a State of ſo late Date, ſhould be the firſt " that wou'd preſume to queſtion his Majeſty's ancient Right, ſo " many hundred Years inviolably poſſeſt by his Progenitors, and " acknowledg'd by all other ancient States and Princes. That them- " ſelves in their publick Letters of the laſt of *June*, ſeem'd then " to confirm their *Immemorial Poſſeſſion* (as they term'd it) with di- " vers Treaties, as are, of the Year 1550. and another between " his Majeſty's Predeceſſors and *Charles* V. as Prince of thoſe Pro- " vinces, and not by the Law of Nations. To which their laſt " Plea his Majeſty wou'd have them told, That he being an Iſlan- " der Prince, is not ignorant of the Laws and Rights of his own " Kingdom, nor doth expect to be taught the Laws of Nations " by them nor their *Grotius*. For his Majeſty taking this for a " high Point of his Sovereignty, will not have it ſlighted in any " Faſhion whatſoever, *&c.* Let them adviſe to ſeek Leave from " his Majeſty, and to acknowledge him his Right as other Princes " have done and do; or it may well come to paſs, that they that " will needs bear all the World before them with their *Mare Libe-* " *rum*, may ſoon come to have neither *Terram* and *Solum*, nor *Rem-* " *publicam Liberam.*" To which Letter the Ambaſſador returning an Anſwer, among other things ſays, " I told the Prince of *Orange*, " that howſoever his Majeſty both in Honour of his Crown and " Perſon, and Intereſt of his Kingdoms, neither cou'd nor wou'd " any longer deſiſt from having his Right acknowledg'd by this " State, as well as by all other Princes and Commonweals; eſpe- " cially finding the ſame openly oppugn'd both by their States- " men and Men of War, as the Writings of *Grotius*, and the ta- " king of *John Brown* the laſt Year may teſtify; yet this Acknow- " ledgment of a Right and Due was no Excluſion of Grace and " Favour, and that the People of this Country paying that ſmall " Tribute upon every one of their Buſſes (which is not ſo much " as diſputed by any other Nation whatſoever.) Such was his " Majeſty's Well-wiſhing to this State, that I preſum'd of his Per- " miſſion to ſuffer them to continue their Courſe of Fiſhing, which " they might uſe thereby with more Freedom and leſs Apprehen- " ſion of Moleſtation and Lett than before, and thereby ſpare the " Coſt of ſome of their Men of War, which they yearly ſend out " to maintain that by Force which they might have of Courteſy.

" The Prince anſwer'd, He would do his beſt Endeavour to pro-
" cure his Majeſty Contentment, but he doubted the *Hollanders*
" wou'd apprehend the ſame Effect in their Payment for Fiſhing,
" as they found in the Paſſage of the *Sound*, where at firſt an eaſy
" Matter was demanded by the King of *Denmark*, but now more
" exacted than they can poſſibly bear. And touching their Men
" of War, he ſaid, they muſt ſtill be at the ſame Charge with
" them, becauſe of the Pyrates. He ask'd me whether this Free-
" dom of Fiſhing might not be redeem'd with a Sum of Money.
" To which I anſwer'd, 'Twas a Matter of Royalty more than of
" Utility, tho' Princes were not to neglect their Profit." The ſame Ambaſſador wrote home afterwards, That the States had acknowledg'd their Commiſſioners in *England* had gone beyond their Inſtructions in uſing of the Term of *Immemorial Poſſeſſion*: But this Diſpute dropt, and nothing came of it in King *James*'s Reign, except a Verbal Acknowledgment of his Dominion in the *Britiſh* Seas, with which this King ſatisfy'd himſelf; and his Eaſineſs encourag'd our Neighbours to contemn the Authority of his Son *Charles* I. In the Beginning of whoſe Reign they committed innumerable Abuſes, which provok'd his Majeſty to equip a Fleet, and publiſh a Proclamation, declaring the Reaſon of his making that Armament, *A. D.* 1636. Wherein having ſhewn what Outrage had been done to his Father's and his own Prerogative, by ſeveral People Fiſhing in their Seas without Licenſe, he ſays, *We being very ſenſible of the Premiſes, and well knowing how far we are oblig'd in Honour to maintain the Rights of our Crown, eſpecially of ſo great Conſequence, have thought it neceſſary, by the Advice of our Privy Council, to renew the aforeſaid Reſtraint of Fiſhing upon our aforeſaid Coaſts and Seas without Licenſe firſt obtain'd from us, and by theſe Preſents to make publick Declaration, that our Reſolution is (at Times convenient) to keep ſuch a competent Strength of Shipping upon our Seas, as may (by God's Bleſſing) be ſufficient both to hinder ſuch further Encroachments upon our Regalities, and aſſiſt and protect thoſe our good Friends and Allies, who ſhall henceforth by Virtue of our Licenſes (to be firſt obtain'd) endeavour to take the Benefit of Fiſhing upon our Coaſts and Seas in the Places accuſtom'd.* The *Dutch* expreſſing their Apprehenſions of theſe Naval Preparations to Sir *William Boſwell*, then Reſident at the *Hague*, he acquainted the Miniſters in *England* with it, and Sir *John Cook*, then Secretary of State, wrote him a Letter, wherein after he had ſet forth the ſeveral Encroachments made by the *Hollanders* on the Fiſhings in the *Britiſh Seas*, and other Marine Offences, he writes thus, *Conſidering that Peace and War muſt be main-*

maintain'd by the Arm of Power, which only keeps down War by keeping up Dominion, His Majeſty thus provok'd, finds it neceſſary, even for his own Defence and Safety, to re-aſſume and keep his ancient and undoubted Right in the Dominion of theſe Seas, and to ſuffer no other Prince or State to encroach upon him, thereby aſſuming to themſelves or their Admirals any Sovereign Command, but to force them to perform due Homage to his Admirals and Ships, and to pay them Acknowledgments as in former time they did. He will alſo ſet open and protect the free Trade of his Subjects and Allies, and give them ſuch ſafe Conduct and Convoy as they ſhall reaſonably require: He will ſuffer no other Fleets or Men of War to keep any Guard upon theſe Seas, &c. In the ſame Letter the Secretary ſays, *We hold it a Principle not to be deny'd, that the King of* Great Britain *is a Monarch at Land and Sea, and that it concerns him as much to maintain his Sovereignty in all the* Britiſh *Seas, as within his Three Kingdoms, becauſe without that, theſe cannot be kept ſafe, nor he preſerve his Honour and due Reſpect with other Nations.* But this Fleet did not finiſh the Work 'twas deſign'd for; and King *Charles* being afterwards involv'd in a War with his Parliament, 'twas not likely he ſhou'd then much mind his Dominion at Sea. But when the *Rump* had the Government, they out of Jealouſy of the Neighbouring Commonwealth, fitted out a Fleet to maintain the Right of Sovereignty of the new pretended Sovereigns to the *Britiſh* Seas. This Fleet was ſcarce arriv'd in the *Downs*, when the *Dutch* thinking to ſurprize it, fell upon it, and hop'd to deſtroy the Naval Strength of the *Engliſh* at once; but *Blake* who commanded the *Engliſh* Fleet making his Party good with them, tho' they had Two Ships to his One; and *Oliver*, after they had been well beaten in ſeveral Naval Fights, obliging them to beg a Peace of him; the Duty of the *Flag* was heartily agreed to, and the Sovereignty of the *Engliſh* Seas very plainly acknowledg'd by the *Dutch* in the 15*th* and 16*th* Articles of the Treaty concluded between the Two Nations, *November* 15, 1653. The Subſtance of which Two Articles are as follows.

ART. XV.

That the Ships and Veſſels of the ſaid United Provinces, as well Men of War as others, be they in ſingle Ships or in Fleets, meeting at Sea with any of the Ships of the State of England, *or in their Service, and wearing the Flag, ſhall ſtrike the Flag, and lower their Top-ſail until they be paſſed by, and ſhall likewiſe ſubmit themſelves to be viſited if thereto requir'd, and perform all other Reſpects due*

to the Commonwealth of England, *to whom the Dominion and Sovereignty of the* Britiſh *Seas belong.*

Leo ab Aitzma, fol. 847. ſays, The States would have this Addition inſerted after *paſs'd by*, in ſuch manner as the ſame has been formerly obſerv'd in any Times whatſoever.

*Sept.*14.1662. This Article was from hence tranſcrib'd into the 10*th* Article at *Whitehall*; and afterwards into the 19*th* Article at *Breda*; from thence into the 6*th* Article made laſt at *Weſtminſter*; and that *Dec.*18.1674. Clauſe of Searching each others Ships made reciprocal by the 5*th* Article of the Marine Treaty at *London*. By the *Britiſh* Seas in this Article are meant the four *Seas* and not the *Channel*.

ART. XVI.

All Dutch *Ships are allow'd to paſs and repaſs in the* Britiſh *Seas, either Men of War or others, without any Wrong or Injury, not exceeding ſuch a Number as ſhall be agreed upon*, &c. *but in caſe the ſaid States General ſhall have Occaſion to paſs through the ſaid Seas with a greater Number of Men of War, they ſhall give three Months Notice of their Intention to the Commonwealth, and obtain their Conſent for the paſſing of ſuch a Fleet.*

Whatever Infringements were made of theſe Articles, we queſtion whether King *Charles* II. would ever have broken the Peace on that account. There is nothing more certain, than that the firſt *Dutch* War in this Reign was owing to *French* Councils: However, the Effects anſwer our Deſign, and prove, that the *Dutch*, who have moſt openly oppugn'd the Title of the *Engliſh* to the Sovereignty of their Seas, have moſt ſolemnly acknowledg'd it, as may be ſeen by the XIX. Article of the Treaty of Peace concluded between that King and the States General, *July* 29, 1667. to this purpoſe, *That the Ships and Veſſels of the ſaid United Provinces, as well Men of War as others, meeting any of the ſaid King of* Great Britain's *Men of War in the* Britiſh *Seas, ſhall ſtrike the Flag, and lower the Top-ſail, in ſuch manner as the ſame hath been formerly obſerv'd in any Times whatſoever.*

When the *Dutch* apply'd to Queen *Elizabeth* for Succours, one Argument for their aſſiſting them made uſe of by their Agents was, that the Situation of their Provinces wou'd be a great Security for the Preſervation of her Empire in the Ocean, as may be ſeen in *Stow*. And how that Wiſe State came to forget themſelves ſo far afterwards, as to put the Realm of *England* to the Charge of Two or Three Wars to bring 'em to Reaſon, we cannot comprehend:

For

For the Homage the *Engliſh* require at Sea is a Trifle, in compariſon of the Advantages they reap by their Alliance, and the Security of their Protection. 'Tis probable the Imperious Methods us'd by the *Engliſh* in demanding the Flag of the *Dutch*, might exaſperate that State, and that the Court of *England* were put upon it by the *French*, who under *Richlieu* began firſt to apply themſelves vigorouſly to the encreaſing their Traffick and Strength at Sea: But *Richlieu* left that Undertaking to the famous *Colbert*, who had the Glory to finiſh it, and to ſee the *French* Fleets in a Condition to contend with the moſt powerful Maritime States. He form'd Companies for Trading to *Africa*, the *Eaſt* and *Weſt-Indies*; and founded a Polity for the Government of the *Marine*: But knowing all the *French* Naval Strength wou'd ſignify little, while the *Engliſh* and *Dutch* continu'd theirs, he may reaſonably be ſuppos'd to adviſe his Maſter to ſet them one againſt the other, in order to deſtroy them both; and how far he proceeded in that fatal Deſign, the Hiſtories of the Reign of King *Charles* II. will make appear. *England* conniv'd at the growing Greatneſs of *France* at Sea, than which nothing cou'd more endanger her Maritime Sovereignty. She not only ſuffer'd but aſſiſted the *French* to build a Fleet; and had not the Parliament, tho' almoſt too late, put a timely End to the Miſunderſtanding which the *French* did very induſtriouſly foment between *Great Britain* and *Holland*, with a Deſign to ruin the Naval Power of both, *Lewis* XIV. would not have found it ſo difficult a Task to acquire the Dominion of all the *European* Seas, as he does now to defend his own Coaſts and Harbours againſt the Victorious Fleets of the Queen of *Great Britain*, and the States General of the United Provinces.

The great Efforts the *French* Court made to encourage and improve Navigation, were ſeconded by the Labour of Ingenious Perſons appointed by the Miniſtry to write Tracts for the Illuſtration of Commerce, and to excite People of all Qualities, to be more or leſs concern'd in the Companies that were then forming, in which the King and moſt of the Princes of the Blood, and of the Lords of the Court put very liberal Shares, that by their Examples others might be induc'd to venture in the ſame Bottoms. And to one of theſe Authors we are oblig'd for a kind of an Acknowledgment of the *Engliſh* Dominion in the Seas lying between us and *France*, which we ſuppoſe fell from him accidentally. This Paſſage is to be found in a Treatiſe entituled, *Le Parfait Negotiant*, written by the Sieur *Savery*, and publiſh'd at *Paris* in the Year 1675. with the Order and Approbation of Monſieur *Colbert*, Prime

Prime Miniſter for the *Marine*, to whom it was Dedicated. This Author, *Page* 118, and 119. ſpeaking of the Diſcovery of the *Canary* Iſlands, ſays, " That the Duke of *Burgundy* joining with " the King of *England*, an Enemy of *France*, made a Deſcent " into *Normandy* with 1000 Ships, ſo that the War being broke " out, *and the* Engliſh *poſſeſſing the Sea and our Ports*, the Ad- " miral could not get, *&c.*" Now if the *Engliſh* poſſeſt the Sea in ſuch a manner that the Admiral of *France* himſelf durſt not equip a few Tranſport Ships, to ſend Men and Proviſions to the *Canaries*, to the Diſcovery and Right of which the *French* pretend, none can imagin the *French* at that time preſum'd to cope with us at Sea; and if ſuch a Poſſeſſion as that attributed by the *French* themſelves, was not an Authentick Proof of Dominion, we cannot tell what is. 'Tis true, the *French* may anſwer to this, When we loſt their Ports we loſt the Dominion of the Sea; but it has been ſhewn, that the *Britiſh* Naval Sovereignty was not founded upon ſo precarious a Poſſeſſion, but is as old as Hiſtory, at leaſt as our Hiſtory, and as undeniable as any thing can be, which is prov'd by the Acknowledgment of all Nations and Ages. We have look'd into the Hiſtories of moſt of our Kings from the *Norman* Invaſion, to King *Charles* the IIs Reign, and have found they all aſſerted and maintain'd their Dominion of the Sea. King *James* II. was buſy'd about other things, and what Navy he had, was intended rather to ſecure his Arbitrary Government at Land, than to defend his Sovereignty at Sea. King *William* his Succeſſor, glorioufly aſſerted and maintain'd it, in Fleets in Conjunction with the *Dutch*, in giving Laws to all Nations in all the Seas in the World, where a Royal Fleet ever appear'd. And Queen *Anne* has with the ſame Vigour and Succeſs, held that Dominion at Sea which King *William* left her, the *French* managing their Sea Affairs like Pyrates, and pretending to no Dominion but what they get by Surprize, as *Corſairs* do over Ships they can maſter.

We have had, in her preſent Majeſty Queen *Anne*'s Reign, an Inſtance of her aſſerting her Sovereignty at *Sea*; for Admiral *Whetſtone*, in *July*, 1706. meeting with a Fleet of *Swedes* Merchant Men, under Convoy of a *Swediſh* Man of War, her Majeſty's Ship the *Worceſter* fir'd a Gun, as a Signal to command the *Swedes* to ſtrike, but the *Swediſh* Captain ſending his Lieutenant aboard to acquaint the *Engliſh* Commander that he had poſitive Orders not to ſtrike to any Flag whatſoever, even in the Channel it ſelf: The Captain of the *Worceſter* receiving that Meſſage, inſtead of the ordinary Marks of Homage to be expected from all Foreigners in the *Engliſh* Seas, fir'd a Ball, which being anſwer'd with a Broad-

ſide

ſide by the *Swede*, the *Worceſter* and another *Engliſh* Man of War engag'd the *Swediſh*, kill'd and wounded about 150 of her Men, with ſome Loſs on their ſide, and brought her and all the Merchant Ships into the River; nor were they diſcharg'd till Satisfaction was given the Queen for the Affront put upon her Admiral in her own Seas. Some Inſtances of the ſame Nature, tho' not ſo ſolemn, happen'd in King *William*'s Reign, and will we hope be ſufficient to induce other Nations not to invade the Right, which the Kings and Queens of *Great Britain* are as lawfully poſſeſt of, to the Sovereignty of the *Britiſh* Seas, as to the Dominion of the *Britiſh* Empire at Land.

The CONCLUSION.

After the many Treatiſes that have been written on the Subject of Trade, and to prove that *Great Britain* can never maintain her Dominion at *Sea*, without encouraging her Commerce, one would think there needed no Arguments on this Head. 'Tis a Poſition as readily granted as aſſerted, and yet ſuch is the Fatality that attends our Traffick, that of all our Affairs, it is always that which is moſt neglected, tho' 'tis of the moſt Importance; and the *French* our mortal Enemies know our Intereſt ſo well, that they attack us moſt vigorouſly on the ſide of our Trade, and have endamag'd us ſome Years as much that way, as the Charge of all our Maritime War. Why we, who are, in Conjunction with the *Dutch*, or at leaſt who may be Maſters of all the Seas in the World, ſuffer our Enemies to poſſeſs the beſt Trades, and cannot defend our own, let thoſe anſwer who reſolve all Difficulties by Fate, and excuſe every Misfortune that happens through Ignorance or Negligence, by the Malignity of Stars: For no other Excuſe can be found for it. We ſhall not enter farther into theſe Enquiries, but end this Treatiſe with this known Truth, That *Great Britain* can never be formidable abroad, nor ſafe at home, but by her Naval Power; That her Fleets cannot be maintain'd, but by her Trade; That without Trade ſhe would ſoon grow poor and contemptible, and an Acre of Land in *England* be of no more Value than one in *Maryland* or *Virginia*.

ARTICLE II.

OF THE

LAWS

OF THE

SEA,

ANCIENT and *MODERN.*

INtending here to treat of the Sea-Laws of ſeveral Nations, (ſome of which are now extinct, and others yet ſubſiſting) I ſhall in each of the following Titles conſider in order, the Laws of ſome particular Country apart. And thoſe of the *Rhodians*, being the moſt ancient and moſt famous of any that are extant, I have deſervedly aſſign'd them the firſt Place in the Article; in which tho' the Sea-Laws of all the Nations of the World be not inſerted, I have taken Care to tranſlate from their Originals, thoſe

in which we are moſt particularly concern'd, or that are otherwiſe valuable and worthy of Imitation, and could be purchas'd here or elſewhere at any rate.

TITLE I.

Of the Naval Laws and Statutes of the RHODIANS, *with ſome Additional Illuſtrations and Remarks upon them.*

RHODES is the Capital City of a Renowned Iſland of that Name, of about 120 Miles Circumference, ſituate in that Part of the *Mediterranean* call'd the *Carpathian* Sea, over againſt *Caria*, and near the *South Weſt* Point of the *Leſſer Aſia*, having *Cyprus* to the *Eaſt*, *Ægypt* to the *South*, and *Candia* to the *Weſt*; its Longitude being 58 Degrees, and Latitude 37 Degrees and 50 Minutes. It was beſieg'd and taken by the *Turkiſh* Emperor *Solyman* in the Year 1522. and has ever ſince been ſubject to the *Ottoman* Empire.

Rhodes, amongſt other things, is famous for the huge Statue or Image of the Sun, which is ſaid to ſhine there at leaſt once every Day in the Year; the Weather it ſeems never being ſo cloudy as to deprive the Inhabitants of that Place for a whole Day together, from the glorious Appearance of that Luminous Body: This Statue is ſeventy Cubits high, and one of the Wonders of the World.

I have already taken notice, *Page* 54. in ſpeaking of the Maritime Dominion of the *Rhodians*, that tho' they were once very mighty at Sea, they had not render'd themſelves ſo famous by their Naval Strength as by their Naval Laws; to which even the Victorious *Romans* themſelves (who were in other things the moſt accompliſh'd Legiſlators under the Sun) paid ſo great a Deference and Reſpect, that to the immortal Glory of their Authors, they were honour'd with the ſingular Approbation of the *Roman* Em-

perors,

perors, as well as of their Senate: And they being deliver'd to us by *Peckius*, in his Commentaries *de Re Nautica* (of Maritime Affairs) in two different Fragments, the first of which, he says, had obtain'd the Sanction of the Emperors *Tiberius*, *Adrian*, *Antoninus*, and several others; and the last is to be found in the 11*th* Book of the Digests of the *Roman* Laws, where 'twas inserted by the Emperor *Justinian*; of which I here present you with a faithful Translation in the two subsequent Sections.

But as the Customs of the *Rhodian* and *Roman* Navigators were different from ours, I have judg'd it convenient to illustrate with Notes and Explanations, what might otherwise seem obscure to those that are not pretty well acquainted with the Naval Polity of the Ancients.

And tho' I be not ignorant, That, in some Cases, the Duty of a good Translator is to tye himself up exactly to the very Words of his Author, by placing a positive Term where the Original is positive, and endeavouring to find an ambiguous Word when his Author is ambiguous; I am however of Opinion, That in Matters of this Nature, a Translator ought to be allow'd the Liberty of expressing his Author's Meaning in the Terms that he thinks most proper for rendring the Subject intelligible and easy to the Reader; without destroying the Sense of the Original: And that Liberty I have so much the more Right to claim here, that above all other things, the Denominations of the Naval Officers of the Ancients having been very much different from ours, I should hardly be understood if I confin'd my self to their Expressions.

SECT.

SECT. I. *Containing the first Fragment of the Naval Laws of the* RHODIANS, *as they were ratified by several of the* Roman *Emperors.*

ARTIC. I. *Of the Owners of Ships.*

The Wages of the Owners shall be a double Portion.

ILLUSTRATION.

Tho' now the Masters are not frequently the Owners of their Ships, 'tis probable that they generally were amongst the *Rhodians*, as well as *Romans*. For the *Latin* Word *Exercitor*, which corresponds with Ναύκληρος, which is the Original Term in the *Greek*, implies *the Owner of a hired Ship*, being a Term synonimous with these of *Navicularius* and *Naviculator*; so that probably the Owner being likewise the Master, or Commander of the Ship, was to have besides the Hire or Fraight for the Ship it self, a double Portion for his own Wages; that is to say, twice as much as was allow'd the other Mariners: But how much that Portion was, is not determin'd, nor is it of any great importance to us to know it, since the Wages we now give our Sea-Officers and Mariners, depend upon Events that render that Precedent useless to us.

ARTIC. II. *Of the Pilot.*

The Wages of the *Pilot* shall be a Portion and a half.

ILLUSTRATION.

The *Greek* Term Κυβερνήτης, which is most properly answer'd in *Latin* by the Word *Gubernator* (signifying *Governor*) is nevertheless explain'd by a Circumlocution, *viz. Ille qui Clavum tenet*, (he that steers the Helm, or governs the Stern of the Ship) by which it appears, That then it was usual for the *Pilots* not only to

to direct the Ship's Course, but steer her too themselves, as indeed they are still oblig'd to do amongst us, when the Ship has any dangerous Place to pass through, or is so near any Shoar, that a more than ordinary Skill is requisite to bring her safe off; but otherwise, such of the other Mariners as are most capable of that Function, are appointed to do it by turns.

ARTIC. III. *Of the Boatswain.*

The Wages of the *Boatswain* shall be a Portion and a half.

ILLUSTRATION.

The Words, both in the *Greek* and *Latin*, implying that Officer which rules the Prow or Fore-part of the Ship, I thought they could not be more naturally render'd, than by the Term of *Boatswain*, whose Office is much the same amongst the *English* Mariners.

ARTIC. IV. *Of the Carpenter.*

The *Carpenter's* Wages shall be a Portion and a half.

ILLUSTRATION.

The Word *Naupegus*, which the *Latins* have deriv'd from the *Grecians*, being in effect the same with *Fabricator Navium*, or *Navis Artifex*, does properly signify a Ship-Builder, and is the same with what the *Venetians* call, in imitation of the Modern *Greeks*, *Calafatte*, which is render'd by the *French*, *Charpentier*, and by us properly call'd *Shipwright* or *Carpenter*.

ARTIC. V. *Of the Coxswain's Wages.*

The Wages of the *Coxswain* shall be one Portion.

ILLUSTRATION.

Carabus, by several of the Ancients, is taken for a sort of a Store-Ship, attending Men of War and other great Vessels, such as these to which we now give the Name of *Tenders*. But the Officer here term'd *Carabita*, being spoken of, as one that remains on

on Board of the Principal Ship, 'tis very probable that thereby is meant the Mariner that has the Charge and Management of the Ships Boat, which is all the Tender that ſmall Merchant Ships are provided with; and ſo that inferior Officer muſt be the ſame, who by the *French* is call'd *Patron de la Chaloupe*, and by us *Cox-ſwain*.

ARTIC. VI. *Of the Mariners.*

The Wages of each *Mariner* ſhall be one Portion.

This Article needs no Illuſtration.

ARTIC. VII. *Of the Drudge or Kitchen Boy.*

The Wages of the *Kitchin-Boy* ſhall be half a Portion.

ILLUSTRATION.

The Word here employ'd in the Original, implying *one that takes care of the Fire, or lights it*, &c. wanting a proper Term in *Engliſh* to correſpond exactly with Παιδαρχέιτω and *Pareſcharita* in *Greek* and *Latin*, I thought it could not be more aptly render'd, than by the Term of a Drudge or Kitchin-Boy, *&c.* which is uſual enough in *England*.

ARTIC. VIII. *Of the Merchant.*

The *Merchant* may have two Boys in the Ship, paying for their Paſſage.

ILLUSTRATION.

By this Article 'tis provided, That a Merchant, fraighting any Ship, and imbarking himſelf with his Goods, may likewiſe carry along with him two Boys or Servants, he paying a reaſonable Allowance for their Paſſage.

Note, *The Six following Articles treating only of Paſſengers and their Privileges, and Duty aboard of Ships, after inſerting them one after another, I ſhall explain what may ſeem obſcure in any of them, in a Diſcourſe that ſhall follow them.*

ARTIC.

ARTIC. IX.

A Paſſenger's Place ſhall be three Cubits in Length, and one in Breadth.

ARTIC. X.

A Paſſenger ſhall not himſelf fry Fiſh in the Ship, nor ſhall the Maſter allow him to do it.

ARTIC. XI.

No Paſſenger ſhall cleave Wood on Ship-Board, and the Maſter ſhall hinder ſuch as attempt it.

ARTIC. XII.

Paſſengers ſhall receive Water on Ship-Board by Meaſure.

ARTIC. XIII.

A Woman Paſſenger ſhall have a Place of one Cubit aſſign'd her, and a Boy only one half of a Cubit.

ARTIC. XIV.

If any Paſſenger carries Money aboard of a Ship, let him depoſit it in the Hands of the Maſter; which if he fails to do, and afterwards pretends to have loſt either Gold or Silver, his Oath ſhall not be valid againſt the Maſter, becauſe it was not depoſited in his Hands.

Illuſtration of the ſix above-written Articles.

Tho' the Word *Vector* (which I here render *Paſſenger)* be by ſome taken for thoſe that tranſport, as well as for the Perſons that are tranſported; and tho' *Porphyrius*, *in Queſtionibus Homericis*, makes that Term ſignify *Marine Soldiers*, 'tis plain by the Senſe and Connexion, That by it is here meant *Paſſengers*, or Perſons imbarking in a Ship to be tranſported from the Port where

they imbark, to ſome other, upon a certain valuable Conſideration to be paid by them for ſuch Tranſportation, upon their Arrival at the aforeſaid Port.

And as to the Place, three Cubits long, and one Cubit broad, ſpoken of in the Ninth Article, 'tis probably that in which they are to lie; tho' indeed I muſt confeſs, That the Length of three Cubits and a half (which is here expreſly ſpecify'd, and amounts to no more than four Foot and a half of our Meaſure) does not ſeem to be ſufficient for a Man of a good Size to lie in; or at leaſt, he muſt not pretend to ſtretch himſelf out in his Bed. But ſince I cannot conceive for what other Uſe this Place ſhould be aſſign'd a Paſſenger, I am ſtill of Opinion that 'tis for a Bed; nor will the Shortneſs very much ſurprize ſuch as will take the Trouble to conſider the ſmall Burthen of the ancient Ships, in compariſon with thoſe we now uſe; nor are the Conveniencies for Lodging at this time very great in little *Doggers*, or other ſuch Ships of 40, 50, or 60 Tuns; and yet I believe they are a great deal better than they were in Ships of the like or of greater Burthen amongſt the *Ancients*.

As for the Injunction contain'd in the 10*th* Article, by which Paſſengers are prohibited to fry Fiſh on Shipboard, and the Maſter forbid to allow any that Liberty, I cannot conceive what gave Occaſion to that Law, except it be this Conſideration; That Paſſengers not being ſuppos'd to be very well acquainted with Sea Affairs, ſhould not be allow'd to uſe the Fire upon any Account; which is no contemptible Preſervative againſt unlucky Accidents.

By the 11*th* Article, Paſſengers are in the ſame manner forbid to cleave Wood on Ship-board, and the Maſter alſo commanded to deny that Privilege (as the former) to ſuch as would attempt it; which Law has probably been intended for the preventing of any Damage that might otherwiſe occur to the Ship or Goods, by the Practice of that violent Exerciſe by Paſſengers, who poſſibly might do Miſchief without knowing it.

The 12*th* Article contains a very ſeaſonable Regulation for obliging Paſſengers to content themſelves with a moderate quantity of freſh Water, which they muſt receive by Meaſure whilſt on Ship-board; for otherwiſe the freſh Water, which at Sea is very precious, might be waſted and ſquander'd away, to the great Detriment of the Paſſengers themſelves, as well as of all the Ship's Company.

By the 13*th* it is ordain'd, That a Woman Paſſenger ſhall have a Place to lie in, of a Cubit in Breadth; and tho' the Length be not

not mention'd, we are reaſonably to ſuppoſe it not to have been intended any leſs than allow'd to a Man. But as for a Boy (by which muſt certainly be meant any Child, whether Male or Female) there is only allow'd one half of that Breadth, a convenient Length being naturally ſuppoſed.

The 14*th* Article contains a very juſt and reaſonable Statute, by which Paſſengers are enjoin'd to depoſit their Money in the Hands of the Maſter of the Ship: And withal acquainted, That if they fail in that, they are not to expect any Reparation at his Hands, in caſe it be ſtoln or otherwiſe loſt.

ARTIC. XV. *Of a mutual Oath to be taken by Maſters, Mariners and Paſſengers.*

The Maſters, Mariners and Paſſengers, that ſail together, ſhall take an *Evangelical* Oath.

ILLUSTRATION.

This Word *Evangelical* has been added by the *Chriſtians* to this Law; for the Ancient *Rhodians* at the Time that their Sea-Laws were compil'd, were Heathens and Idolaters. What the Nature and Intent of this Oath was, is not here expreſs'd. The Word in the *Greek* is Ἀναμφίλογον, which *Peckius* renders in *Latin*, *Juſjurandum Irrecuſabile*; which Words imply an Oath *that is undeniable*, or *that cannot be refuſed*, and may likewiſe ſignify, *that cannot be gainſaid, retracted or recalled*; ſo that 'tis probable that it was a ſort of mutual Engagement or Oath of Fidelity, which Perſons Navigating together were oblig'd to take. But of whatever Nature that Oath was, 'tis of no very great Importance for us to trouble our ſelves about it.

ARTIC. XVI. *Of the Eſtimation of the* Rhodian *Ships.*

The Eſtimation of a Ship (containing a thouſand Meaſures) with all its Tackle, ſhall be fifty Nobles; and ſo it ſhall come into Contribution. And the Eſtimation of an old Ship ſhall be thirty Nobles, out of which deducting one Third, it ſhall likewiſe come into Contribution.

ILLUSTRATION.

This Article of all the others ſeems to me the hardeſt to be underſtood; nor will I be very poſitive in affirming, that I have perfectly well comprehended the Meaning of it now, tho' it has coſt me more Trouble and Pains than all the reſt together.

As to the Meaſure ſpoken of, ſome take it to have been that which is call'd both in the *Greek* and *Latin*, *AMPHORA*, and was a Square Veſſel containing about Nine Gallons; ſo that a Ship carrying a thouſand of them, muſt not have been of a very prodigious Burthen. And as for the Piece of Money which I have render'd in the *Engliſh* a *Noble*, 'tis call'd in the *Latin* Tranſlation *Solidus*, and in the Annotations upon that *Aureus*; both which I find to come much to the ſame thing in *Engliſh*; for tho' by *Solidus* be now ordinarily meant a *Shilling*, it was formerly taken as *Aureus*, for an ancient Piece of Gold of the Value of 6 *s.* 8 *d.* or thereabouts, and known to us by the Name of a *NOBLE*.

So that upon the whole, my Opinion is, That the *Rhodian* Legiſlators did by this Article intend to fix the Eſtimation of their Merchant Ships in proportion to their Burthen, to the end that according to that Eſtimation they might be tax'd, either in caſe of the Contribution for Damages at Sea, (of which more is ſaid in the ſubſequent Fragment) or perhaps in other things, in which Ships might be liable to pay, in Foreign and Domeſtick Ports, according to their Burthen; ſuch as Pilotage, Anchorage, and other Duties.

ARTIC. XVII, & XVIII. *Of Loans and Intereſts by Sea and Land.*

ARTIC. XVII.

The Law thus commands, That Things which are entruſted to Seafaring Perſons upon Surety, and without Riſque for the Lender, ſhall not be put into Writing; or if a Writing be made according to the *Rhodian* Law, it ſhall not be valid: But ſuch things as are given upon Credit to Perſons that travel by Land, tho' with a Surety and without any Riſque, ſhall be reduc'd into Writing.

ARTIC.

ARTIC. XVIII.

If any Perſon taking up Money upon Uſe, and paying for ſeveral Years the lawful Intereſt, there befals him, after eight Years, any Loſs or Damage by Fire, or by the Irruption of the *Barbarians*, or otherwiſe; the Tranſaction concerning the Intereſt ſhall be made according to the Laws of the *Rhodians*: But if the former Intereſts were not paid, the Contents of the firſt Agreement ſhall be obſerv'd according to the Inſtrument.

ILLUSTRATION.

For the better underſtanding of what is above, 'tis fit to know, That amongſt the *Rhodians* there was a great Difference, not only in the Value of the Intereſt paid for Money lent at Sea, and for Money lent at Land; but likewiſe in the manner of Conditioning and taking Security for ſuch Sums.

There was, it ſeems, no Intereſts due for Money lent at Land, except an Inſtrument was produc'd in due Form by the Lender, in which all things agreed upon between him and the Borrower were plainly ſtipulated and expreſs'd; which makes me think, That the Intereſt at Land was various; perhaps according to the Security given, or the Time which the Money was to remain in the Hands of the Borrower, or ſome ſuch Circumſtance.

And as to the Intereſt of Money lent to Mariners and other Seafaring Perſons, 'tis evident that that was of two ſorts: The ordinary Intereſt for Money lent to Mariners upon Security, and without any Riſque on the part of the Lender, they call'd ſimply *Fœnus* or *Uſura*; but the extraordinary Intereſt agreed to be paid by Mariners, together with the Principal, upon Condition that the Lender ſhould run the Hazards of the Sea, and that the Mariner ſhould make Reſtitution only in caſe he perform'd happily his Voyage, and not otherwiſe; that, I ſay, was call'd by the Ancients *Fœnus Nauticum*, or *Naval Intereſt*, importing that the Lender took upon himſelf the Hazards of the Sea; and that was deſervedly allow'd to be much more conſiderable than the ordinary Intereſt; for that it was not only lent without Security, but likewiſe in a manner ſo inſur'd by the Lender, that the Borrower was in no Danger of ſuſtaining any Loſs.

The

The 18*th* Article is a favourable Statute for ſuch as, having borrow'd Money, after duly paying the Intereſt during the ſpace of eight Years, ſhould ſuffer any Loſs; in which Caſe the Laws of *Rhodes* (to which this Statute appeals) allow a certain Mitigation of the Intereſt for the Time to come; which is not obſcure enough to want any further Illuſtration.

ARTIC. XIX, & XX. *Of Maſters and Mariners.*

ARTIC. XIX.

Maſters ſhall not be anſwerable for the Contracts of their Mariners, but they may be detain'd for their Crimes.

ARTIC. XX.

Maſters ſhall be oblig'd to deliver and reſtore whatever they receive; but none can compel them to receive any thing which they have from the Beginning refus'd to receive.

ILLUSTRATION.

As to the 19*th* Article, in which 'tis ſaid, That Maſters may be detain'd for the Faults or Crimes of their Mariners, but not for their Debts; I preſume that the Meaning is this, *viz.* That in caſe a Mariner commits a Crime, the Ship may be ſtopp'd from purſuing her Voyage, having the Criminal aboard; and in a word, That the Maſter cannot protect ſuch a Mariner from Juſtice: For 'tis not to be imagin'd, That a Maſter of a Ship could be bound to anſwer perſonally for the Offence of his Mariners, that being againſt all Reaſon and Law whatſoever. And as to the Matter of Debts, 'tis not upon the main reaſonable, if People fooliſhly truſt Seamen with Money or Things, that the Maſter ſhould be oblig'd either to pay the Money, or ſurrender the Debtors; for then his Voyage might be broken for want of Hands to man his Ship, and ſo he and the Merchants ſhould innocently ſuffer for other People's Folly; and therefore by this Law 'tis wiſely provided, That if Money or Goods are given to Seamen, the Givers muſt look to their own Security themſelves; by which, innumerable Inconveniencies, that otherwiſe might occur, are prevented.

The

The 20*th* Article concerns only Goods receiv'd by, or offer'd to Maſters of Ships upon Fraight.

ARTIC. XXI. *Of Money taken up by Maſters for the Uſe of the Ship*, &c.

When Maſters of Ships, that are Proprietors of one Third of the Lading, take up Money for the Voyage, whether for the outward or homeward bound, or both; all Tranſactions ſhall paſs according to the Writings drawn up between the Maſter and the Lender; and the latter ſhall put a Man on board the Ship, to take Care of his Loan.

Note, *This laſt Article is gnaw'd out in the Copy of the* Rhodian *Sea Laws in the* Vatican, *and in ſeveral others 'tis entirely left out.*

SECT. II. *Containing the ſecond Fragment of the Naval Laws of the* RHODIANS, *as extracted out of the* 11th *Book of the Digeſts of the* Roman *Laws.*

ARTIC. I, II, III, & IV. *Of Stealing of Anchors and other things.*

ARTIC. I.

If a Ship, touching at any Port or Shore, be robb'd of her Anchors, the Thief being taken and convicted, the Law condemns him to the Torture, and to pay double Damages.

ARTIC.

ARTIC. II.

If, with the Conſent of the Maſter, the Seamen of any Ship rob another Ship in the Port of her Anchors, and thence the Loſs of the Ship ſo robb'd enſue; that being duly prov'd, the Maſter who permitted the Robbery, ſhall make good to a Farthing, the Damage happen'd to the loſt Ship, and them that were in it. And if any thing elſe of the Ship's Tackle, ſuch as the Cables, Ship's Boat, Sails, Canvas, or any other thing of that Nature be ſtoln, the Thief being taken and convicted, ſhall reſtore double.

ARTIC. III.

If any Mariner by the Command of the Maſter ſteal any thing of a Merchant, or other Paſſenger, and be ſurpriz'd in the Fact; the Maſter ſhall make good the Double to the Owners, and the Mariner that committed the Fact ſhall receive a hundred Blows of a Cudgel. But if the Mariner alone be acceſſory to the Theft, he ſhall be grievouſly tortur'd (eſpecially, if it was Gold that he ſtole) and ſhall make Reſtitution to the Owner.

ARTIC. IV.

If a Maſter ſteer his Courſe thro' any Place obnoxious to Pyrates after being inform'd of the Danger thereof by the Paſſengers; and thereupon they happen to be ſpoiled, the Maſter ſhall make good the Loſs. And if the Paſſengers carry the Ship thro' a dangerous Place, after being acquainted with the Danger by the Maſter, and any Miſchief happen, then they ſhall ſuſtain the Damage.

The four precedent Articles are in themſelves ſo plain, that they need no illuſtration.

ARTIC.

ARTIC. V, VI, VII.

Of Quarrelling, Fighting, and Striking.

V.

If the Mariners quarrel, let it only be in Words; and let them not ſtrike one another. And if any giving another a Blow on the Head, wound him, or hurt him in any other manner; he that gave the Blow, ſhall pay the Doctor's Fees, and all other Charges, and ſhall likewiſe pay his Hire for the loſt Time, and tend the hurt Perſon during the Cure.

VI.

If the Mariners quarrel, and one of them ſtrike another with a Stone or Cudgel, and he return the Blow to him from whom he receiv'd it, that ſhall be deem'd to have been * *ſe defendendo*: And tho' the Perſon laſt ſtruck do thereupon die, it being prov'd by Witneſſes, that the Deceas'd did firſt ſtrike the Survivor, either with a Stone, with a Stick, or with any Iron; he that ſtruck and killed, ſhall be free from all Danger, for that the Deceas'd ſuffer'd himſelf, only what he would have made another ſuffer.

* *In his own Defence.*

VII.

If any Maſter, Merchant, or Mariner ſtrike a Man with his Fiſt, and blind him; or if by kicking him, he burſts his Belly; beſides the Doctor's Fees, he ſhall pay Twelve Nobles to the Perſon for the Loſs of an Eye, and Ten Nobles for the cauſing of a Rupture; and if the Perſon ſo ſtruck deceaſe, the Striker ſhall be puniſhed with Death.

The Three precedent Articles are in themſelves ſo clear, that they don't want any farther Explication.

ARTIC. VIII. *Of Maſters and Mariners running away with Ships.*

If a Maſter, to whom a Ship is intruſted, with the Conſent of the Mariners, run away with her into a Foreign Country, all their Goods, Moveable and Immoveable, and whatſoever they poſſeſs in any manner, ſhall be ſeiz'd; and being ſold, if their Price does not equal the Value of the Ship, Trouble and Time, the aforeſaid Maſter and Mariners ſhall be hired out, 'till they have made ample Satisfaction for the Damage by them cauſed.

ILLUSTRATION.

For the better underſtanding of this Article, 'tis fit to let you know, that in ſome Caſes it was Cuſtomary among the Ancients to adjudge the Perſons of Offenders to be diſpos'd of, or hired out to Maſters, 'till by their Labour they ſhould make Satisfaction for Damages by them caus'd, which they were not otherwiſe able to repair; and ſuch it ſeems was, amongſt the *Rhodians*, the Condition of thoſe, who running away with Ships into Foreign Countries, had not Effects ſufficient to refund the Value of the Ships, with Damages and Charges; it being by this Law provided, That ſuch Offenders (returning into their Dominions, or being apprehended, and brought within the Limits of their Juriſdiction) ſhould be hired out to work as Servants or Bond-men, 'till they had made Satisfaction for ſuch Offences.

ARTIC. IX. *Of Lightening of Ships in a Tempeſt*, &c.

If a Maſter conſult about Lightening of a Ship, let him enquire of the Paſſengers, what Money they have in the Ship, and a juſt Calculation being made, the Money ſhall pay proportionably towards the Contribution: And the Beds and wearing Cloaths, and Inſtruments, ſhall likewiſe be taxed. And if an Ejection be made, the Maſter ſhall not be rated at more than One Pound, the Pilot and Boatſwain Half a Pound, and the Mariners Three Scruples. And if there be Servants, or any other Perſons that are not to part from the Ship, they ſhall be tax'd at Three Mina's; but if they be to leave the Ship, at Two Mina's. And in the ſame manner ſhall they contribute, if they are robb'd of Money or other things belonging to the Mariners in general, by Pirates. And if there intervene ſome private Articles of Partnerſhip concerning Profits, a juſt Computation being made of the Ship and every thing in it, the Partners ſhall bear their Proportion of the Contribution to be paid for Damages.

ILLUSTRATION.

This Article is the moſt important of the whole Fragment, and treats of Lightening of Ships in Time of a Storm, *&c.* and of the Manner in which that is to be done. One may eaſily imagine, that when a Ship is in Diſtreſs and in Danger of Sinking, the Law of Nature will oblige the Perſons that are in her, to uſe all poſſible Means for their own Preſervation: And Ships being frequently loaden ſo full, in hopes of fair Weather, that in caſe of a Storm they are not well able to live at Sea without being disburthen'd of a part of their Lading, it is in that caſe allowable for the Maſter and Company to throw over-board, as much of the Lading as is requiſite for enabling the Ship to bear out againſt the Tempeſt. Nor does that only happen when Ships are overburthen'd: For frequently they may by ſtormy Weather be reduc'd to ſuch a Paſs, that tho' their Lading be not extravagant, it may be neceſſary to part with ſome of it; and in that Caſe, if the Owner of the Goods be in the Ship, 'tis poſitively requir'd, firſt to conſult

him; and in his Abſence, the Conſent of the Company is a ſufficient Warrant for the Maſter to disburthen the Ship; but the Merchant, or his *Super-Cargo*, or any other Perſon being preſent for him, 'tis requiſite that ſuch an Ejection ſhould not be undertaken without his Conſent. And thence it became cuſtomary, not only amongſt the *Rhodians* and *Romans*, but generally amongſt all other Navigators, that the Owner of the Goods being preſent, ſhould with his own Hand begin to disburthen a diſtreſſed Ship, by throwing ſomething over-board himſelf; after which the Seamen and others were to follow his Example, and throw over as much of the Lading, as might put the Ship in a Condition to reſiſt the Storm.

And becauſe it ſeldom happens that the whole Lading of a Ship belongs to one Merchant, it is very juſtly provided, that the Perſon whoſe Goods are caſt over-board, ſhall not be the only Loſer, but that the Owners of ſuch Goods as have been ſaved, ſhall contribute towards the Loſs of thoſe that were thrown over-board. So that even Silver, Gold and Precious Stones (tho' theſe can't be well ſuppos'd to endanger a Ship by their Burthen) muſt pay proportionably with other Goods; and that not according to their Bulk, but their Value: Nor is the Owner of the Ship at all exempted from paying his Proportion according to the Value of the Ship, becauſe the throwing over of the Goods contributes to the Common Security of the Ship, and all that is in it: And as every one is oblig'd to bear his Proportion of the Loſs, all endeavour to be as careful as poſſible to throw over the Goods that are leaſt valuable; for otherwiſe it might happen, that the Maſter and Mariners out of Spite and Revenge, might occaſion conſiderable Damage to Merchants, againſt whom they might have ſome private Pique.

Nor are in ſome Caſes the Cloaths, Beds, and perſonal Neceſſaries, nor even the Perſons of the Maſter, Merchants, Paſſengers, and Mariners themſelves free from contributing towards the Damage ſuſtain'd by ſuch Ejections, as appears by the Article I'm now explaining, in which (you ſee) they are tax'd.

When it happens that Goods have been thus thrown over-board to lighten a Ship, the Contribution is made in this manner. In the firſt Place, an Account is given only of the Prime Coſt of the Goods that are loſt, and then an Eſtimation being made of them that are preſerv'd, not according to what they coſt, but according to the Price they'll probably yield at the Port whither the Ship is bound; they are all charg'd in Proportion to their Value, and muſt pay accordingly.

And

And in the ſame manner it is ordain'd to make an equal Contribution for Damages ſuſtain'd by Rovers and Pirates; the good Deſign of which Law, is, to excite every individual Mariner, and other Perſon in the Ship to his Duty, to which the Conſideration and Apprehenſion of his own particular Riſque, will not a little contribute.

This Article concludes with a very reaſonable Clauſe, obliging all Perſons, tho' not on Ship-board themſelves, concern'd by Partnerſhip in any part of the Contribution to be paid out of the Ship's Cargo, to allow their Share of the Contribution to be paid out of the Goods that are preſerv'd, towards the Price of thoſe that are loſt; which certainly is very juſt, ſince it is not thoſe who are entituled to any Share of the Profit, ſhould decline to bear their Proportion of the Loſs; except that by ſome ſeparate Agreement, the contrary be provided.

ARTIC. X. *Of Shipwrack and other Damages.*

If by the Negligence of Maſter and Mariners, any Damage or Shipwrack happen, they ſhall be anſwerable for it. And likewiſe if by the Fault of the Merchant the Ship and Cargo periſh, he ſhall ſuſtain the Loſs. But if a Shipwrack happen meerly by Misfortune, without any Failure on either Side, what can be ſav'd of the Ship and Lading ſhall be priz'd and brought to a Contribution.

This Article is too plain to need any Explication.

ARTIC. XI. *Of Old and Unſound Ships.*

Let not Merchants nor Paſſengers put heavy and precious Goods in an old Ship: Or if they do, and the Ship ſetting ſail, the Goods be ſpoilt or damnified, they muſt blame themſelves. But when Merchants hire Ships, let them diligently enquire of others who have formerly ſail'd in them, whether they be well provided with all neceſſary Inſtruments, Tackle, good Sail-Yards, Sails, Canvas, Anchors, Ropes, convenient Ruthers, good Boats; and able, skilful and ſufficient Mariners; and whether the Ship's Sides be ſound: And in fine, to comprehend all in one Word, let them enquire about the Ship's ſufficiently in every thing, and accordingly venture their Goods.

This Article requires no Illuſtration.

ARTIC. XII. *Of a* Depoſitum, *or* Truſt, *by Sea and Land.*

If a Perſon depoſit any thing, either in a Ship or Houſe, tho' in the Hands of a known and reputable Man, let it be done in the Preſence of Three Witneſſes. But if the Matter be of Conſequence, let a Writing be drawn up upon it. And if the Perſon in whoſe Cuſtody it is left, pretend that 'tis loſt, he muſt ſhew the Place where the Houſe has been broke, or make it appear how the Theft was committed; and make Oath, that he is no way acceſſary to it. Which if he cannot do, he muſt make good the Thing depoſited as he receiv'd it.

ILLUSTRATION.

By this good Law, the *Rhodians* endeavour'd to obviate the Abuſes which the Avarice and Diſhoneſty of Men had, by reaſon of the Deficiency of former Statutes, found means to introduce into Trade. And as here a ſufficient Remedy is appointed againſt the unjuſt Denials and Pretences which in ſuch Caſes were ordi-

ordinarily made uſe of; ſo by the ſubſequent Article, for avoiding all Occaſions of Confuſion and Loſs by the Mariners, *&c.* Perſons carrying Money aboard of Ships, are enjoyn'd to conſign it in the Hands of the Maſters, who in that Caſe are to be reſponſible for it, and not otherwiſe.

ARTIC. XIII. *Of Money,* &c. *ſtoln at Sea.*

If a Paſſenger imbarking in a Ship, carry Money, or any other Thing along with him, let him depoſit it in the Hands of the Maſter. And if (that not being done) he alledges, that he has loſt either Gold or Silver, no Notice ſhall be taken of what he ſays, further than this; That the Maſter, Mariners and other Paſſengers in the Ship, ſhall be interrogated upon Oath about it.

ILLUSTRATION.

This, you ſee, is much the ſame with the 13th Article of the precedent Section, only with this Difference, That whereas in the former, no Injunction is laid to put the Maſter or Mariners, *&c.* of any Ship upon their Oath in Caſes of this Nature; that Deficiency is here ſupply'd, and all Perſons navigating in a Ship where any Money or other valuable Effects are miſſing, are oblig'd to declare upon Oath whether they know any thing concerning them.

ARTIC. XIV. *Of Depoſitaries denying the Receipt of what was left in their Hands, and their Puniſhment.*

If a Depoſitary denying upon Oath, or by Writing, the Receipt of what was entruſted to him, be afterwards convicted by Witneſſes; or if the Thing depoſited be found in his Cuſtody, he ſhall reſtore Twofold: And beſides that, ſhall be puniſh'd as one guilty of wilful Perjury.

This needs no Explication.

ARTIC.

ARTIC. XV.

If Merchants or Paſſengers having other Mens Servants aboard a Ship under their Charge; or if the Maſter, being entruſted with Captives, touch at any City, Port, or Coaſt; and there, any Perſon or Perſons going aſhore, the Ship happening whilſt they are at Land to be purſued by Robbers or Pirates, and making the ordinary Signal, puts to Sea; ſo that both the Ship and the Merchants, and Paſſengers Goods are preſerved; all the Goods and Effects of thoſe that were left aſhore, ſhall be reſtored to them. And if any of them afterwards commence a Suit againſt the Maſter, for having left them aſhore in a Place infeſted with Robbers, they ſhall recover nothing; becauſe the Maſter and Mariners were obliged to fly from the Pirates. But if a Merchant or Maſter leave another Man's Servant, who was under his Charge in any Place, he ſhall make Reſtitution to his Maſter.

ILLUSTRATION.

For the better underſtanding the Senſe of this Article, it ſeems neceſſary to acquaint the Reader, that as in moſt other Things, ſo in War, the Cuſtoms of the Ancients did very much differ from theſe of the preſent Age; and that eſpecially with regard to Priſoners taken in War, who for the moſt part were made Slaves; that is to ſay, remain'd in perpetual Captivity. And tho' amongſt the more polite Nations, ſome Regard was had to their Quality and Station, thoſe of the common ſort were ſold and diſpos'd of, as are now the *Negroes* which we purchaſe in *Guiney*, and carry to the Plantations in *America*. And in this Senſe is to be underſtood the Captives and Servants here ſpoken of, and ſuppos'd to be committed to the Care of Maſters, Merchants or Paſſengers, who by this Law lie under an Obligation of looking ſo narrowly after them, that if by any Accident they ſhould happen to be left aſhore, the Perſons under whoſe Tuition they were left, ſhould be anſwerable for them, and liable to make Reſtitution either of the Perſons or Value to the Owners.

ARTIC.

ARTIC. XVI. *Of Money lent for Naval Intereſt*, &c.

If Maſters or Merchants borrow Money for their Voyages, the Goods, Fraight, Ships and Money being free, they ſhall not make uſe of Suretyſhip, except there be ſome apparent Danger either of the Sea, or of Pirates. And for Money ſo lent, the Borrowers ſhall pay Naval Intereſt.

ILLUSTRATION.

By this Law Merchants and Mariners borrowing Money to be laid out in their Traffick by Sea, ſeem to be enjoin'd to pay Naval Intereſt for it; which (as I have already obſerv'd) was much more conſiderable, than that which was paid for Money borrow'd upon Security at Land; becauſe the Hazard was much greater: For amongſt the *RHODIANS*, when Money was lent upon Naval Intereſt, the Riſque was for the Lender, who in Conſideration of that, had a very conſiderable Share of the Profits ariſing from it. So that upon the Main, it was the Lenders that traded with their own Money, by the Intermiſſion of ſuch Sea-faring Perſons as thought fit to follow that way of Living; and who undoubtedly made a great Profit for themſelves with the Money ſo borrow'd, beſides the Share they were oblig'd to give the Lenders for the Uſe of their Money, and for the Dangers to which it was expos'd.

ARTIC. XVII. *Of Money lent in Partnerſhip.*

If Money is lent to a Sea-faring Perſon by one in Partnerſhip with him, for the Uſe of the Partnerſhip, and Articles be drawn either for one Voyage, or for any longer Time that the Partnerſhip is to laſt; if the Perſon receiving the Money, don't return it in the Time appointed to the Owner, and it afterwards happen to be loſt, either by Fire, Robbery, or Shipwrack, the Lender ſhall bear no Share in the Loſs, but ſhall receive his own in Safety. But if before the Expiration of the Time appointed for the Partnerſhip, there happens any Loſs or Damage at Sea, the Loſs (as well as the Gain) ſhall be divided between them both, according to the Agreement made.

This needs no Illuſtration.

ARTIC. XVIII. *Of Perſons borrowing Money upon Security, and afterwards going abroad.*

If any Perſon borrowing Money for a certain Term, does afterwards go into a foreign Country; the Time agreed upon being expir'd, the Loan ſhall be paid according to the Law of Suretyſhips. But if there be no way of getting Satisfaction, and the Money ſtill remains in the Hands of the Borrower, he ſhall pay Naval Intereſt for all the Time that he was abſent.

ILLUSTRATION.

I have already given ſome Account of the Difference that there was amongſt the *Rhodians*, between the Intereſt paid for Money borrow'd at Land, and to be employ'd there, and that which was borrow'd by Sea-faring Perſons, to be laid out in Goods, and tranſported to Foreign Countries in the way of Trade. I have likewiſe taken notice, that in the latter Caſe the Lenders were allow'd to

to receive much greater Profits than in the former, becauſe their Riſque was greater. Now the Intent of this Article is, only to command the like Intereſt to be paid for Money borrow'd by a Perſon who afterwards retires to a Foreign Country, during the Time that he remains there; becauſe the Legiſlators thought it juſt to give the Lenders ſome extraordinary Allowance for the Diſappointment they met with, and the Riſque they might run upon ſuch Occaſions.

ARTIC. XIX. *Of Fraighting of Ships, and giving Earneſt.*

If any Perſon hiring a Ship, and giving Earneſt, ſays afterwards that he has no Occaſion for her, he ſhall loſe his Earneſt; but if the Maſter recede from the Agreement, he ſhall give the Merchant double the Earneſt.

This Article needs no Explication.

ARTIC. XX. *Of Charter-Parties.*

In Hiring of Ships, the Charter-Parties ſhall not be valid, except they be ſeal'd; and the Penalties may be inſerted with the Conſent of the Parties. But if there be no Charter-Party, and either the Maſter or Fraighter go from their Word: As, ſuppoſe the Merchant ſhould not give the Money agreed to, he muſt pay half Fraight to the Maſter; or if the latter break his Word, he ſhall pay to the Merchant the half of the Fraight. But if the Merchant pretend entirely to recede from the Bargain, he ſhall pay to the Maſter the whole Fraight; which Penalty ſhall be exacted as a Puniſhment for Breach of Promiſe.

This does not want any Illuſtration.

ARTIC. XXI. *Of Maſters or Owners of Ships in Partnerſhip together.*

If Two Maſters of Ships Verbally enter into Partnerſhip, acknowledging that they have done ſo in former Times, and have mutually obſerved the Conditions thereof, and always paid the Duty of each Lading; in caſe any Accident happens to either of the two Ships, whether being in Ballaſt, or Loaden, that which is ſafe ſhall ſuſtain one Fourth part of the Damage, tho' their Partnerſhip be commenced without any written Inſtrument: But where there be Articles in Writing, they ſhall be firm and valid; and the Things which are ſaved ſhall be liable to a Contribution with thoſe that are loſt.

ARTIC. XXII. *Of Merchants fraighting a whole Ship.*

If a Merchant fraighting a Ship, agree to lade it entirely himſelf, the Maſter ſhall carry nothing in it but Water, Proviſions, Ropes, *&c.* and other the Ship's neceſſary Tackle. However, if the Maſter will put in other Goods in the Ship, he may, if ſhe can carry them. But if the Merchant, in preſence of three Witneſſes, proteſt againſt it, and thereupon there happens at Sea to be an Ejection, the Maſter ſhall ſuffer the Damage; but if the Merchant do not forbid it, they ſhall contribute towards the aforeſaid Damage.

ARTIC. XXIII. *Of the Validity of Charter-Parties.*

If there's a Charter-Party in being between the Merchant and the Maſter, it ſhall be valid; and tho' the Merchant does not compleatly lade the Ship, he ſhall pay the Fraight according to the Contents of that Inſtrument.

The precedent Articles want no Illuſtration.

ARTIC.

ARTIC. XXIV. *Of Lets and Impediments in Voyages.*

If the Maſter having receiv'd half of the Fraight, and ſetting ſail, the Merchant will return, notwithſtanding the Charter-party, he forfeits the Sum he has paid for that Impediment. But if the Maſter break the Articles, he ſhall forfeit the Value of the whole Fraight to the Uſe of the Merchant.

ILLUSTRATION.

That the Reader may not confound this Article with the 20th of this Fragment, which likewiſe treats of the Penalties impos'd upon ſuch as having fraighted Ships, do afterwards recede from their Bargains, which are different from thoſe mentioned in this Article; I ſhall put him in mind, That there the Breach of Verbal Bargains and Agreements about Fraighting of Ships, is ſpoken of; whereas the Penalties here mentioned, are for the Breach of Charter-Parties, which are written Inſtruments ſolemnly ſign'd and ſeal'd. And beſides that, 'tis more properly the Impediments that may happen during the Voyage, that are here treated of.

ARTIC. XXV. *Of Demurage*, &c.

If a Ship be detained by the Merchant Ten Days longer than the Time appointed by the Charter-Party to remain in any Port, he ſhall find the Company in Victuals and Drink; and if Ten Days more paſs, the Merchant ſhall pay the Fraight and quit the Ship, except he be willing to add a reaſonable Sum to that before agreed to; upon Payment of which, he may ſail, as he ſees convenient.

ARTIC. XXVI. *Of Maſters or Mariners lying aſhore, or being Negligent.*

If the Maſter or any of the Mariners lying aſhore, the Ship happens during their Abſence, to periſh, whether by Night or by Day, the Maſter or Mariners ſo lying aſhore, ſhall ſuſtain the Damage; and thoſe who remain in the Ship ſhall be free. And whatever Damage befalls a Ship by any one's Negligence, ſhall be refunded to the Owner by the Perſons by whoſe Fault it happen'd.

The precedent Articles need no Illuſtration.

ARTIC. XXVII. *Of Shipwracks happening by the Fault of the Maſter or Mariners.*

If a Ship puts to Sea with Merchants or Partners Goods, and there happens to be diſabled, or to periſh by the Fault of the Maſter or Mariners, the Goods that are ſav'd, ſhall be ſecur'd in a certain Place free from any Danger. But if 'tis prov'd by Witneſſes, That the Shipwrack was occaſion'd by the Tempeſt, as well what remains of the Ship, as of the Goods, ſhall be brought to a Contribution; and the Maſter ſhall retain half the Value of the Fraight. And if any Perſon, denying in ſuch a Caſe his Partnerſhip in a Voyage, be convicted thereof by Three Witneſſes, he ſhall pay his Proportion of the Loſs, and likewiſe undergo the Puniſhment of that Denial.

ILLUSTRATION.

By this Law, you ſee, that further Proviſion is made for determining ſuch Differences as might probably ariſe between the Parties concern'd, in caſe of Shipwrack: it being poſitively ordain'd, That in caſe ſuch a Diſaſter ſhould in any manner happen by the Fault of the Mariners, then the Lading (if ſav'd) ſhould be preſerv'd for the Merchant, free from all Contribution, towards the Da-

Damage of the Ship; leaving the other Matters, concerning that which the Goods may have ſuſtain'd, to be decided according to the other precedent Statutes about ſuch Affairs. And ſo this Article concludes with a very juſt and equitable Regulation, concerning Perſons who having only Verbally taken an Intereſt in any Ship, or in its Lading, in Caſe of ſuch a Diſaſter, ſhould pretend to deny themſelves to be concern'd therein, in order to avoid the paying a Share of the Loſs proportionable to what they would have claim'd in the Profit; of which being duly convicted, they were to pay a double Share of the Loſs, and be further puniſh'd for their fraudulent Denial, as the Law requir'd.

ARTIC. XXVIII. & XXIX. *Of the Staying of Ships in Ports, and Shipwrack, or other Damage happening thereupon.*

ARTIC. XXVIII.

If a Ship be detain'd by a Merchant or Partner, ſo that ſhe cannot ſail from her Port upon the Day appointed, and that Ship happens afterwards to be taken by Pirates, or to periſh by Fire or Shipwrack, he that was the Cauſe of her being detain'd, ſhall pay the Damage.

ARTIC. XXIX.

If a Merchant in the Port where the Charter-Party is made, does not at the Day appointed, lade the Ship, and ſhe afterwards ſuffers any Damage by Pirates, Fire, or Shipwrack, the Merchant ſhall pay all the Damage; but if before the Day appointed, any ſuch Accident happens, they ſhall both contribute.

Theſe Two Articles need no Illuſtration.

ARTIC.

ARTIC. XXX. & XXXI. *Of Ships that are loſt, and the Merchant's Money ſav'd.*

ARTIC. XXX.

If a Merchant lade a Ship, and, carrying Money with him, any Accident happen to the Ship, ſo that ſhe being broken to pieces, the Goods are loſt; what can be ſav'd of the Ship or Goods ſhall be liable to a Contribution; but the Merchant paying the Tenths, ſhall keep his Money. And if he eſcap'd alone, without laying hold of any Implement of the Ship, he ſhall only pay half Fraight, according to the Charter-Party; but if he made uſe of any Tool belonging to the Ship in ſaving of himſelf, he ſhall pay a Fifth of the Money preſerv'd.

ARTIC. XXXI.

If a Merchant lades a Ship, and any Accident happens, whatever is preſerv'd on either ſide ſhall be liable to a Contribution. If there be Money ſav'd, it ſhall pay a Fifth; and the Maſter and Mariners ſhall uſe their utmoſt Endeavours to ſave it.

This needs no Illuſtration.

ARTIC.

ARTIC. XXXII. *Of a Ship going to Sea for a Fraight, or in Partnerſhip, and there ſuffering Shipwrack.*

If a Ship, being laden by a Merchant, puts to Sea, either for a Fraight, or in Partnerſhip, and ſome Misfortune befals her, the Merchant ſhall not diſpute the paying of half Fraight; and what is ſav'd of the Goods ſhall, together with the Ship, be liable to a Contribution. But if the Merchant, or Partner, has advanc'd any Money before-hand, all things ſhall paſs according to the Form of the written Agreement made between them.

This Article needs no Explication.

ARTIC. XXXIII. *Of Accidents befalling a Ship after ſhe is unladed.*

If a Maſter unlade the Goods at the appointed Port, and afterwards any Accident befals the Ship, the Merchant ſhall pay him the whole Fraight; and the Goods unladed, together with the Ship, ſhall be ſecure from the Paſſengers. But if any thing remains in the Ship, it ſhall be liable to a Contribution with the Ship.

ILLUSTRATION.

What is here meant by the unladed Goods, and Ship's being ſafe from the Paſſengers, ſeems a little obſcure: For my Part I am of Opinion, That in ſuch Caſes the Paſſengers were not allow'd any Reparation of the Damage they might ſuſtain in the Clothes and perſonal Neceſſaries they might have a Ship-board; becauſe they being only there accidentally, and having no Intereſt in the Voyage, it was not, perhaps, thought juſt, that the Goods of a Merchant, who hir'd the Ship and paid the Fraight, ſhould bear any Proportion of the Loſs ſuſtain'd by a Paſſenger, by whom he was to expect no Profit. Without this Gloſs or Paraphraſe upon it, I don't ſee how the laſt Sentence of this Article, can be made conſiſtent with the Words immediately preceding.

ARTIC. XXXIV. *Of Goods ſpoil'd in the Hold, by Leakage or Water*, &c.

If a Ship has Linnen or Cloths aboard, the Maſter ſhall provide good Canvas, leſt the Goods ſhould be damnified by the flowing in of the Water in the time of a Storm. If the Pump or Sink too much fills the Ship, the Maſter ſhall forthwith acquaint ſuch as have Goods on Board, that they may be view'd; and if the Seamen not informing the Maſter thereof, the Goods be ſpoil'd, the Maſter, together with the Mariners, ſhall refund the Damage: But if it appear, that the Maſter and Mariners declared that the Sink was too full, and that the Goods ſhould be laid abroad, and thoſe that laded 'em neglect it; the Maſter and Mariners ſhall be no ways liable to the Damage.

ILLUSTRATION.

This Article contains a very commendable Regulation for obliging the Maſters and Mariners of Ships to be careful of the Lading, and to have continually an Eye upon the Hold, to ſee that it be clear of Water, and that every thing remain in its due Situation. Nor is there any thing more juſt, than that the Damage occaſion'd by the Negligence and Careleſneſs of Maſters and Mariners, ſhould be repair'd by them, ſince otherwiſe ſome of them would be ſo indifferent of Merchants Goods, that they would ſcarce be at the Pains to ſtow them in Places of the Hold convenient for them: And on the other hand, 'tis no leſs reaſonable, That if the Maſters and Mariners acquit themſelves of their Duty, in acquainting the Owners of the Goods, of the Danger that they are in, and they notwithſtanding refuſe to let them be remov'd, the Owners themſelves ſhould ſit down with the Loſs which they would not prevent. However, theſe are Caſes which, I believe, very ſeldom happen amongſt us.

ARTIC. XXXV. *Of a Ship lightening her Burthen in Diſtreſs.*

If a Ship either having loſt her Maſt by Accident, or, it being cut, throws over any of her Lading in that Diſtreſs, all the Mariners, Merchants, and Goods, and what is preſerv'd of the Ship, ſhall be liable to a Contribution.

This needs no Illuſtration.

ARTIC. XXXVI. *Of Ships running aboard of one another.*

If any Ship under Sail in the Day-time run aboard of another, lying at Anchor in a Harbour, or that has ſlackn'd her Sails, all the Loſs and Damage ſhall fall upon the Maſter, and Paſſengers, and Goods of the Ship under Sail, which ſhall be liable to a Contribution. If it be in the Night-time, the Ship that ſlackens her Sails ſhall put out a Light, or, wanting that, ſhall endeavour to avoid the Danger by Shouting and Crying; both which being neglected, and the Ship periſh, 'tis her own Fault; and that being duly prov'd, no Reparation ſhall be made by the other. But if thoſe that have the Management of the Sails be negligent, and the Commander of the Watch be aſleep, the Ship which has its Sails ſpread, ſhall be deem'd to be the Author of that Misfortune, and ſhall refund the Damage done to the Ship ſhe runs aboard of.

ILLUSTRATION.

That ſome Particulars of this Article ſeem to be a little harſh, muſt indeed be acknowledg'd: For tho' it be highly reaſonable, that if a Ship under Sail runs aboard of another, which, not being in that Diſpoſition, cannot avoid the Danger with which ſhe

is threatned, 'tis very hard that the Goods of the Merchant ſhould pay for the Fault of the Seamen, in which he can have no hand; and yet more unaccountable, That an innocent Paſſenger (who perhaps is an utter Stranger to all thoſe Matters) ſhould ſuffer for the Malice, Ignorance, or Neglect of an obſtinate Crew.

However it ſeems, That hereby the *Rhodian* Legiſlators intended to ſtir up all Perſons whatſoever, by the powerful Motive of their own private Intereſt, to do their utmoſt Endeavour to prevent all ſorts of unhappy Accidents; and indeed it ſhould be the principal Care of all Sea-faring Perſons, to avoid ſuch dangerous Rencounters: But as it is not poſſible for a Ship that is either lying at Anchor, or has her Sails in ſuch a Poſture that ſhe cannot of a ſudden change her Courſe, to prevent ſuch Meetings, the Ship that has her Sails in a good Diſpoſition, and may ſteer another way, is obnoxious to the Law for all the Damage that may befal another of whom ſhe runs aboard; than which, nothing is more reaſonable: If the Damage is occaſion'd by the Omiſſion of thoſe that receive it, they muſt e'en take it for their Pains; for if in a dark Night a Ship lying at Anchor in any Road, puts out no Light, and keeps no Watch, another Sailing that way, may very innocently run aboard of her without being aware of the Danger; and therefore due Care ſhould be taken to keep a regular Watch there as well as at Sea, and likewiſe to put out Lights, by which they may be diſcover'd from afar, and thereby freed from ſuch unhappy Accidents.

ARTIC. XXXVII. *Of a Ship being loſt, and the Lading ſav'd.*

If any Accident befal a Ship, by which ſhe periſhing, the Goods of the Merchants and Paſſengers are notwithſtanding preſerv'd; the Goods preſerv'd ſhall pay their Fifteenths, but the Merchants and Paſſengers ſhall not pay the Maſter for the Ship.

ARTIC.

ARTIC. XXXVIII. *Of Ships laden with Corn, and ſurpriz'd with a Storm.*

If a Ship laden with Corn be ſurpriz'd with a Tempeſt, the Maſter ſhall take care to give good Canvas, and the Seamen to keep the Pump clear; which if they neglect, and the Corn is thereby wet, the Mariners alone ſhall bear the Damage: But if the Corn be damnify'd by the Storm, without any Fault on their Part, the Damage ſhall be born by the Maſter and Mariners, together with the Merchant; and the Maſter and Mariners ſhall have a hundredth part of what is preſerv'd. And when the Ship is to be lighten'd at Sea, the Merchant ſhall firſt throw ſomething over board, and then the Mariners muſt follow his Example. But if any of them afterwards ſteal any thing, they ſhall reſtore it double, and loſe all manner of Benefit.

ARTIC. XXXIX. *Of laded Ships being carried out of their Courſe and loſt.*

If a Ship, ſetting Sail, laded with Corn, Wine or Oyl, be carry'd by the Maſter (without the Merchant's Conſent) to any Shore or Place out of her Courſe, and there happen to be ſhipwrack'd, the Goods and Lading being ſav'd, the Merchant ſhall ſuffer nothing by the Ship's Misfortune, becauſe he was not for touching at that Place. But if (the Ship being under Sail) the Merchant tells the Maſter, that he muſt of neceſſity touch at any Place that is not mention'd in the Charter party, and there the Ship happens to periſh, the Lading being ſav'd, the Merchant ſhall make good that Ship to the Owner: But if the thing was undertaken by their mutual Conſent, they ſhall contribute for the Damage.

The precedent Articles need no Illuſtration.

ARTIC.

ARTIC. XL. *Of the Shipwrack of Ships, out of which precious Goods are ſav'd.*

If any Ship ſuffers Shipwrack, and (nevertheleſs) a part both of the Ship and Goods be ſav'd; if the Paſſengers have Gold, Silver, Velvet, Pearls, or precious Stones about them, the Gold that is ſav'd ſhall pay the Tenths, and the Silver the Fifths: And if the Velvets be not damnify'd, they ſhall pay the Tenths, as Gold; but if they be, the Damage ſhall be deduc'd, and the Remainder ſhall contribute; and the Pearls, as they ſhall be rated, equalling the Weight of Gold, ſhall compenſe the Value of the Ship.

ILLUSTRATION.

What the Reaſon may be that Silver, which certainly is more burthenſome in a Ship than Gold, ſhould pay one half leſs towards the Damage in caſe of Shipwrack, I cannot imagine; no more than what ſhould make Velvets, which are yet more burthenſome and bulky than Silver, be tax'd twice as much as Silver. 'Tis certain, that that Commodity was much eſteem'd among the Ancients, when it was not ſo commonly wore as 'tis now; but I can hardly believe that it was more precious than Silver. As to the Pearls, of which mention is here made, the Term in the *Greek* Μαργαείτα, which in the *Latin* Tranſlation is render'd *Unio*, from *Unus* ONE, becauſe (ſeveral being found in one Shell) not one of them is like another; but that Term not being (I believe) very uſual in *England*, I thought it convenient to render it by the common Name of *Pearl*.

ARTIC. XLI. *Of Ships being loſt, and the Goods of Paſſengers ſav'd.*

If any Ship be diſabled or loſt, and there being Paſſengers on Board, their Goods and Baggage be ſav'd, they ſhall contribute towards the Loſs of the Ship: And if two or three of the Paſſengers loſe their Money, all the others (according to their Ability) together with the Ship ſhall contribute towards the Loſs of their Money.

ARTIC

ARTIC. XLII. *Of a Ship's being laden with Goods, and turning leaky.*

If a Merchant-Ship gape and turn leaky, the Lading being taken out, it ſhall be in the Maſter's Choice to put them aboard another Ship, or aboard the ſame, if once repair'd; and that not being repair'd, if the Maſter offers to carry them in another to the Port agreed upon, the Merchant ſhall pay the whole Fraight.

ARTIC. XLIII. *Of Ejection and Damage in a Tempeſt.*

If a Ship be ſurpriz'd with a Storm, and an Ejection be made, or if the Sail-Arms, Maſts, Ruther, Anchors, or Ship-Boats be broken, all that is preſerv'd of the Ship and Goods ſhall contribute towards the Damage.

The precedent Articles need no Illuſtration.

ARTIC. XLIV. *Of other Damage happening in Tempeſts.*

If a Ship have Goods on Board, and in a Tempeſt loſe the Maſts, Ruther, Boats, *&c.* and by the Violence of the Storm the Goods happen to be wet, there ſhall be a Contribution: But if the Lading be more damnify'd by the Sink, than by the Tempeſt, the Maſter ſhall notwithſtanding receive his whole Fraight, but ſhall deliver the Goods by the ſame Meaſure, and in the ſame Condition that he receiv'd them.

I L-

ILLUSTRATION.

This Article contains a ſpecial Proviſion for preventing of Damage to Merchant's Goods by the Negligence of the Mariners, in not taking due Care of the Hold and the Pump, which ſometimes occaſions conſiderable Loſs to the Owners of the Lading; for which, the Maſter of a Ship is very juſtly by this Law, oblig'd to reſtore the Goods (the Danger of the Sea only excepted) by the ſame Meaſure, and in the ſame Condition, in which he receiv'd them; and on the other hand, the Merchant is enjoyn'd to pay his full Fraight. Now, as to this Law obliging the Maſter to return the ſame Meaſure of Goods in the ſame Condition he receiv'd them, that is in ſome Caſes impoſſible; for there being Goods, which if once wet, can never be reſtored to their primitive Luſtre, they cannot conſequently be return'd in the ſame Condition. By which 'tis plain, that as no Law commands Impoſſibilities, here muſt only be meant, That if by the Neglect of the Maſter and Mariners the Goods be damnified in the Ship, he muſt ſuſtain the Damage.

ARTIC. XLV. *Of ſaving any part of a Shipwrack.*

If a Ship be ſurpriz'd at Sea with Whirlwinds, or be ſhipwrack'd, any Perſon ſaving any thing of the Wrack, ſhall have one Fifth of what he ſaves.

ARTIC. XLVI. *Of Seamen periſhing in a Storm, and of the Ship's Boat.*

If the Ropes break, and the Boat goes a Drift from the Ship with Mariners in it, and they periſh at Sea, the Maſter ſhall pay their Heirs one full Year's Wages. And if any Perſon finds the Boat, and preſerves it ſafe, he ſhall reſtore every thing as he found it, and receive one Fifth Part as a Reward.

ARTIC.

ARTIC. XLVII. *Of ſhipwrack'd Goods fiſh'd up in the Sea.*

If Gold or Silver, or any other thing be drawn up out of the Sea eight Cubits deep, he that draws it up ſhall have one Third; and if fifteen Cubits, he ſhall have one Half, becauſe of the Depth: And if any Thing is caſt on Shore by the Tide, and taken up only one Cubit deep, the Finder ſhall have a Tenth Part.

ILLUSTRATION.

The three precedent Articles determin the Rewards due to Perſons that find and ſave ſhipwrack'd Goods, as three of the four ſubſequent do the Puniſhments of ſuch as ſteal or imbezle any part of a Wrack, or do in any manner aggrieve or cauſe any Detriment to Perſons under that Misfortune: And as the Circumſtances of Place, *&c.* are different, the Rewards are always to be proportionable to the Danger from which the Perſon delivers the Goods; it being very reaſonable, That a Perſon fiſhing up Goods in the Main-Sea, have a more conſiderable Reward allow'd him, than one that finds them caſt aſhore upon the Sea-Sands.

ARTIC. XLVIII. *Of Perſons taking ſhipwrack'd Goods by Violence.*

Whoever takes any thing from a Wrack by Violence, ſhall reſtore Fourfold.

The above Article is taken out of the ſecond Title of the eleventh Book, and is of it ſelf ſo plain, that it needs no Illuſtration.

ARTIC. XLIX. *Of ſuch as force Maſters of Ships to ſail.*

Whoever impoſes a private Burthen upon the Publick, and forces a Maſter of a Ship to ſail, ſhall not only bear the Loſs and Damage of the Shipwrack, but be ſeverely puniſhed.

ILLUSTRATION.

This Article is taken out of the 5*th* Title of the aforeſaid Book, and does not ſeem ſo very plain, but that it may admit of a ſhort Explication.

I ſhould indeed have been at a Loſs to gueſs the Meaning of it, if the Summary prefix'd to it had not been plainer than the Article it ſelf, in which theſe Words [*to ſail*] are only underſtood, but are expreſs'd in the Summary preceding the Article; ſo that comparing both together, I find the Meaning of it to be this: *That if any Merchant, or other Perſon, ſhould upon any Occaſion, force a Maſter of a Ship to ſail againſt his own Will and Inclination, and there ſhould afterwards happen any Misfortune or Diſaſter to the Ship, the Perſon that forc'd the Maſter to ſail, ſhould be anſwerable for all the Damages*; which indeed is highly reaſonable.

I own that 'tis very oddly expreſs'd in the Article, which *verbatim* runs thus, *Whoſoever impoſes a private Burthen upon the Publick, and forces a Maſter to it, ſhall not only*, &c. But conſidering that the Word *Imponere*, which I here render *impoſe*, may likewiſe ſignifie to lade; and that *Onus*, which I render *Burthen*, may likewiſe very properly ſignifie the *Burthen* or *Lading of a Ship*; and conſidering alſo the following Words of the Article, which concern *Shipwrack*, or Damage happening in ſuch a Caſe, 'tis plain enough, that the genuine Senſe of that Law can be no other than what I have here alledg'd it to be.

As to the Word *Private* and *Publick*, I'm of Opinion that they are properly enough made uſe of here; becauſe when a Man pretends to force another Perſon againſt his Will, to take an Intereſt in his private and particular Matters, 'tis certainly an Impoſition upon the Publick; for tho' Injuries done to particular Perſons regard *immediately* only them to whom they are done; they *mediately* affect the Commonwealth in General; which is undoubtedly attack'd in every Aſſault that is made upon the Perſon or Privileges of any of its Members; which plainly appears from the Univerſal Practice and Conſent of all the Kingdoms, States and Civil Societies in the World; who agree that the Publick has a Right to puniſh Crimes, tho' committed againſt private Perſons; and that without the Conſent of the Perſons to whom the Injuries were done; it not being neceſſary, That that ſhould intervene in order to the Criminal's Puniſhment: And ſo we may obſerve, that in ſuch Caſes, beſides the Council appearing for the Plaintiff at

at the Proſecution of the Criminal, the Sollicitor, or Attorney General, ordinarily appears for the Queen, as they likewiſe do in other Countries.

ARTIC. L, & LI. *Of Perſons violently Robbing and Preying upon Shipwracks.*

ARTIC. L.

Whoever violently takes away any of the Miſerable Remainders of Shipwracks, or takes any Advantage of that grievous Misfortune, ſhall reſtore Fourfold to the Owners.

ARTIC. LI.

If any Man more grievouſly oppreſſes ſhipwrack'd Perſons, and forcibly carries off any ſhipwrack'd Goods, after Reſtitution made; if he is a Freeman, he ſhall be condemn'd to three Years Baniſhment; if a Man of low Degree, he ſhall be imploy'd in the Publick Works during that Time; and if a Slave, he ſhall be put to the moſt ſevere and hardeſt Labour.

ILLUSTRATION.

Theſe two laſt Articles are extracted out of the 5*th* Title of the LXII. Book of the Digeſts, and determine the Puniſhments to be inflicted upon Perſons robbing, or in any manner oppreſſing ſuch as have had the Misfortune to ſuffer Shipwrack; which Puniſhments are proportion'd to the Circumſtances by which thoſe Crimes may either be aggravated or extenuated. Moſt happy would our Mariners think themſelves, if ſuch wholeſome Conſtitutions could take place over all her Majeſty's Dominions, in ſome Parts whereof they are extremely wanted, and particularly upon the Coaſt of *Cornwall*, and all *Wales*, where, if an unfortunate Ship does happen to run aſhore upon the Sands or Rocks, the Inhumane and Inciviliz'd Inhabitants, far from tendering any friendly Succour or Aſſiſtance to the Perſons in Diſtreſs, moſt bar-

barously deprive them of the Miserable Remains of their Ship-wrack'd Fortunes; Stripping them even of their wearing Clothes, and sometimes cruelly Murdering those unhappy People, who would have met with a milder Fate amidst the Waves of the Ocean, than in the unmerciful Hands of those Barbarous Coasters.

The Laws of the *Rhodians* were so much esteem'd amongst the Ancient *Romans*, that they were unanimously receiv'd as the Rule of all Maritime Affairs, except in Cases where they were directly opposite to the Native Laws of their Country. And as the Fraud and Dishonesty of Men had found Means to elude the true Design and Intent of the first *Rhodian* Legislators, the *Romans* took care to reform such Abuses by some explanatory Additions to the aforesaid Laws; which as long as that Monarchy lasted, they always held in great Veneration.

TITLE II.

Of the Naval Laws of Oleron.

I Have already taken Notice in my Discourse of the Dominion of the Sea, that *Richard* the First, King of *England*, in his Return from the Holy-Land, arriving at the Isle of *Oleron*, did there establish certain Laws and Statutes for the Regulation of Maritime Affairs, which were for many Ages famous under the Title of the Laws of *Oleron*; which is a small Island situate in the Bay of *Aquitain*, of which the aforesaid King *Richard* was then in Possession. Which Laws, tho' they were published there, did not only take Place in that Island and the adjacent Countries, but likewise in all the Seas and Maritime Places in this part of the World. And tho' they agree in many things with the Ancient Laws of *Rhodes*, as this Universal Treatise of Sea-Laws ought to be full and satisfactory, I judg'd it necessary to insert the following Abstract of them.

It will not be impertinent to add here, what we find in a *French* Book, called, *Les Us et Coutumes de la Mer*, Printed at *Roan* in the Year 1671. and Dedicated to the First President of the Parliament of *Normandy*.

Oleron

Oleron is an Iſland lying in 17 Degrees of Longitude, and 46 of Latitude, according to *Thevet*'s Obſervation. 'Tis ſituated in the Province of *Guyenne*, in the Dioceſs of *Xaintes*, in the Height of the River *Charente*. *Pliny* calls it *Oliarus*. The Manuſcript in the College *de Foix* at *Thouloufe*, *Vlarus*. *Sidonius Apollinaris*, *Olarion*. This Iſle is rich and fruitful; it produces Abundance of Corn, and Plenty of good Wine. 'Tis ſtor'd with wild Fowl and Veniſon. There's good Fiſhing, and excellent Salt. On all which Accounts, the Dukes of *Guyenne* in Ancient Times us'd to make it the Place of their Recreation. They built a Caſtle that remains there to this Day, and the King generally maintains a good Garriſon in it.

Queen *Elinor*, Dutcheſs of *Guyenne*, granted fair and great Privileges to the Inhabitants of the *Town* and the *Iſle*, which are in the *Archieves* at *Bourdeaux*. This Princeſs returning from her Voyage to the *Holy-Land* at the ſame time that the Cuſtoms of the Sea in the Eaſt, inſerted in the Book of the *Conſulat*, were in vogue and credit all over the *Levant*, order'd the firſt Project of *Judgments*, or Laws, to be drawn up, which were called the *Roll* of *Oleron*, from the Name of her beloved *Iſle*, which was to be a Law in all the Southern Sea, and to decide all Diſputes relating to *Navigation*. After this her Son, *Richard* I. King of *England* and Duke of *Guyenne*, coming back from the ſame Voyage to the *Holy-Land*, enlarg'd this Piece under the ſame Title of the *Roll* of *Oleron*; which Piece, ſays my Author, had nothing at all of *Engliſh* in it. The Terms are all *Old French*, or the *Gaſcon* Brogue, and are not in the leaſt *Norman* or *Engliſh*. It all has reference to a *Bourdeaux* Voyage for the Loading of Wine and other Merchandize of that Place, and tranſporting and unloading at St. *Malo*, *Caen* and *Roan*, Ports of *France*. There is not a Word of the *Thames*, of *England* or *Ireland* in it: So that this Piece, as well from its Title, The *Roll of Oleron*, as for its Language and Contents, is entirely *French*. The learned *Selden* flatters himſelf, and is miſtaken, when in his Treatiſe, *De Dominio Maris*, he attributes the Glory of the Compoſition of this Piece to his own Nation, the *Engliſh*, not conſidering it was made by a Dutcheſs and her Sons Dukes of *Guyenne*, who did it in *Guyenne* for *Guyenne*, and not for their Kingdom of *England*. The Sieur *Moriſol* of *Dijon*, a Man of Merit and excellent Learning, has very briefly refuted, to the great Advantage of the *French*, all *Selden*'s Arguments. In his General Hiſtory of the *Marine*, Book 1. Chap. 18. As ſoon as theſe Laws came to be known, they were approved by all honeſt Men who uſed the Sea; and according to the nature of

of Ancient and Laudable Customs, they insinuated themselves by degrees, and got footing in Courts of *Law* and *Justice*. The *French* receive and observe them as they are naturally *French*; which appears by the third Volume of the *Royal Ordinances*, compiled by Monsieur *Antoine Fontanon*, under the Article of the *Admiral*, or, *A Collection of the Laws and Prerogatives of Monsieur the Admiral of* France, § 19. p. 865.

In the last Age, the Sieur *de Bois Gelin de la Toise*, a Gentleman of *Breste*, writ a Comment upon them, as he had promised in his Treatise of the *Admiralty of the Sea-Coast*, *&c.* but Death hinder'd his finishing and publishing it. The Citizens of the *Magnificent* City of *Wisbuy* in the Isle of *Gothland*, in the *Baltick* Sea, upon the Foundation of the *Laws* of *Oleron*, built the Ordinances and Regulations which take their Name from *Wisbuy*. Their Historians *Olaus* and *Johannes Magnus* are not contented with confining these Laws to the Baltick; They carry the Matter further, and affirm, that the *Ordinances* and *Regulations* of *Wisbuy* were in force in all Ports, Harbours and Seas of *Europe*, as far as the *Streights* of *Gibraltar*: But if we consider the Course of Time, that the Laws of *Oleron* were in Credit in the Reign of Queen *Elinor*, and *Richard* her Eldest Son, allowing that they are of so late a Date as the Copy printed at *Roan*, which is dated in the Year 1266. (which should not be, as the before-mentioned *Selden* observes, in his Treatise, *De Dominio Maris*, cap. 24.) However, let us come so low down as the Year 1266. The *Magnificent* City of *Wisbuy* was not honour'd with the Name of a City in 1288. neither was it enclos'd within Walls, nor defended with Towers and Bastions. The Inhabitants of this Town were then compos'd of Strangers got together from several Places; who, very far from having any Domination Abroad, were not on the contrary absolute Masters at Home, but were disputing with their Sword's-point the Possession of the City with the Inhabitants of the Isle of *Gothland*, from whom they had taken it. *Magnus* King of *Sweden* own'd them, favour'd and protected them, and permitted them to erect their Town into a City, some time after the Year 1288. above-mentioned. *Johannes Magnus*, *Lib.* 20. *Histor. cap.* 9.

Besides, Ever since the Establishment of the *French* Monarchy, the *Goths* and *Swedes* have had no manner of Pretensions nor Authority to give *Laws* to such as have any Commerce on the Coasts of *France*. 'Tis therefore evident that the *Swedes* are indebted to us (the *French*) for their *Maritime Regulations*, and borrow'd them from the Dutchy of *Guyenne* in the Year 1597. The Deputies

puties of the *Hanſe* Towns, which are Free Cities and Sea-Ports of the Empire, drew up the Form of their *Sea-Laws* at *Lubeck*, after the ſame Model; which are fuller in ſome Caſes than the Ordinances of *Wisbuy*. As thoſe of *Wisbuy* are larger than the *Roll of Oleron*, which is a Token of its Antiquity: For what is Modern is always more full than that which is Ancient (through the facility of adding to things already invented.) Theſe three Pieces ſerved for a Pattern to the *Regulations* and *Ordinances* of *Spain*, as to what concerns the *Marine*. They are contriv'd according to the Order, Oeconomy and Government of Ships and their Tackling (without which *Navigation* could not ſubſiſt.)

This Author endeavours to deprive the *Britiſh* Empire of the Honour of giving the Laws of *Oleron* to thoſe that uſe the *Seas*; but his Arguments are ſo poor in that part of his Preface, that there's hardly any occaſion for an Anſwer. He confeſſes they were made by Queen *Elinor* and King *Richard*; but the *Engliſh* aſſert, they were made only by *Richard* King of *England*, and were intended for the uſe of all his Dominions, as well his *Engliſh* as his *French*. 'Tis very unlikely, that they ſhould not be eſtabliſh'd ſo well as to be made publick before the Year 1226. if Queen *Elinor* made them when ſhe was Dutcheſs of *Guyenne*. King *Richard* himſelf dy'd, *A. D.* 1199. and Queen *Elinor* was marry'd above forty Years before that to *Henry* II. After her Marriage King *Henry* in his Wife's Right govern'd *Guyenne*, and the Laws muſt be made forty Years before they were dated, or be King *Henry* II's or *Richard* I's Laws. They took their Authority from the Sovereignty of the King of *England*, and the *French* in ſubmitting to them have lately confeſt the *Dominion* of the *Engliſh* at Sea, tho' they have given them the trouble to force them by Arms to acknowledge it. We ſhall inſert this Author's Obſervations on the *Roll* of *Oleron*, where we think they will intereſt or entertain the Reader.

An

An Abſtract of the Naval Laws of Oleron, *inſtituted by* Richard I. *King of* England, *in his Return from the* Holy-Land *in the End of the Eleventh Century, for the better Regulation of Merchants, Owners and Maſters of Ships, and Mariners; and all Sea-faring Perſons in Maritime Affairs. To which is added, ſome curious Obſervations upon them, taken from ſeveral Authors.*

ARTIC. I.

WHEN ſeveral Joynt Owners make a Man Maſter of a Ship or Veſſel, and the Ship or Veſſel departing from her own Port, arrives at *Bourdeaux*, *Rouen*, or any other ſuch Place, and is there fraighted to ſail for *Scotland*, or ſome other Foreign Country; the Maſter in ſuch caſe may not ſell or diſpoſe of that Ship or Veſſel, without a ſpecial Procuration from the Owners: But in caſe he wants Money for the Victualling, or other neceſſary Proviſions of the ſaid Veſſel, he may for that end, with the Advice of his Mariners, pawn or pledge part of the Tackle or Furniture of a Ship.

OBSERVATION.

The Title of *Maſter* is ſo honourable, and the Command of a Ship of ſuch Importance, that great Care has been taken by all *Maritime* Nations, that none may be employed but honeſt and experienc'd Men. By an *Ordinance* of the *Admiralty* in *France* *A. D.* 1584. every *Maſter* of a *Ship* before he took upon him that Truſt, was to be examin'd whether he was fit for it. The *Spaniſh* Naval Laws require the ſame thing: *El Maeſtre de la Nave para ſerlo, ha de ſer Marinero y examinado. Cedula Real del Año* 1576. *Impreſſa con las de Indias quarto Tomo.* The *Ordinance* an

and Regulations of the *Hanſe* Towns do not only demand Experience and Capacity, but Honeſty and good Manners. And none was to be admitted into the Service of any Citizen aboard his Ship, without a Certificate of his Qualifications, as to his Honeſty and Capacity. See their Book of *Ordinances*, Book 6. Artic. 1.

The *Greeks* called the Maſter of a Ship Ναύαρχον, *cujus fidei Navis concreditur*; to whom the Government of the Ship is entruſted: But ſo, that the Maſter cannot ſell the Ship it ſelf, nor any of her Tackle or Furniture, without the Order or Conſent of the Owners. However, in caſe of neceſſity, when he is in a far Country, he may pawn or pledge her *Tackle* for Proviſions, and if that will not do, he may borrow Money on the Ship's *Bottom*, tho' not without the Conſent of his Officers and Seamen. According to the *Ordinances* of *Wisbuy*, Artic. 13 & 15. and *Philip* II. King of *Spain*'s *Ordinances* in the Year 1563. *Artic.* 12. Thoſe of the *Hanſe* Towns forbids a Maſter of a Ship, notwithſtanding he is Part-Owner, not only to ſell, but to do any thing, even to buy *Tackle* or *Victuals*, without acquainting the other Owners of it, unleſs it be in a ſtrange Country, and in a Caſe of neceſſity, well and lawfully atteſted, *Artic.* 3, 4, 5, *& ſeq.*

By the *Ordinances* and *Cuſtoms* of the Sea, it appears, that formerly 'twas not thought ſafe to entruſt a Maſter of a Ship with the Veſſel and Cargo, unleſs he was a Freeman of that City, and Part-Owner of the Ship; and if he was Part-Owner, when he had betray'd or abus'd his Truſt, the other Owners might turn him out of the Ship, paying him what his Part of her came to at the ſame Price he gave for it. See the *Ordinances* of the *Hanſe* Towns, *Art.* 14. And if he pretended he had ſold his Part to another Perſon for more than 'twas worth, the other Owners might have it apprais'd, and take it to themſelves, paying him what it was valued at by ſuch Appraiſment, *Artic.* 53.

The Maſter commonly took care of every thing belonging to the Ship, from the *Poop* to the *Main-maſt*: He was obliged to underſtand the Art of Piloting and Navigation, that he might know how to controle the Pilot, and mind how he ſteers the Ship, *y ſi el Maeſtre no fuere Piloto es obligado a Uevar un Marinere dieſtro en la Navigacion, tel' que, pueda Regir la Nave a falla de Piloto*, according to the Ordinances of *Spain*. The Mate's Command reach'd from the *Stern* to the *Mizen-maſt*, the latter included. It will not be thought improper by the Curious to mention here the ſeveral Officers of a Ship, either Men of War or Merchant-men, as they were diſtinguiſh'd Aboard a Century of Years ago.

In Royal Navies, the firſt Officer was the Admiral; then the Vice-Admiral; then the Captain-Major, or Chief of a Squadron. In every Man of War the firſt Officer was the Captain, the ſecond the Pilot, who enjoy'd that Place in honour of the *Sciences* he profeſt and practiſed; next to him was the Maſter, who had the Charge of the *Tackle* and Furniture, and then the Captain and Lieutenant of the Soldiers. In a Merchant-man, the firſt Officer was the Maſter, the ſecond the Pilot, the third the Mate, the fourth the Factor, or *Supra-Cargo*; then his Aſſiſtant, Accomptants, the Surgeons, the Steward, four Corporals, the Cook, the Gunner, the Cock-ſwain; the Gunner and Cock-ſwain us'd to work before the Maſt, as well as the reſt of the Ship's Crew; but their Wages were more. There is a great deal of Difference between the Order of Precedency on Board of Ship now, and what was formerly: For the Captain and Lieutenant of the Soldiers would think it very hard to give Place to the *Pilot* and *Maſter* of a Ship; and the Factor, or *Supra-Cargo*, will as difficultly be perſwaded to own the *Maſter* of a Veſſel's Superiority, except in what relates to the *Navigating* the Ship.

ARTIC. II.

If a Ship or other Veſſel be in a Port, waiting for Weather, and a Wind to depart; the Maſter ought when that comes, before his Departure to conſult his Company, and ſay to them; *Gentlemen, What think you of this Wind?* If any of them ſee that it is not ſettled, and adviſe him to ſtay till 'tis; and others on the contrary would have him make uſe of it as fair; he ought to follow the Advice of the Major Part: If he does otherwiſe, and the Veſſel happens to miſcarry, he ſhall be obliged to make good the ſame, according to the Value upon a juſt Appraiſement.

OBSERVATION.

'Tis a Maxim, or General Sea-Law, that a Maſter of a Ship ſhall never ſail out of a Port, never weigh or drop Anchor, cut Maſts or Cable, or indeed do any thing of Conſequence, let him be in whatever Danger may happen, without the Advice of the Major

Major Part of his Company, and the Merchants if there are any aboard: He muſt call all together to conſult. *Wisbuy*, *Article* 14.

ARTIC. III.

If any Veſſel, through Misfortune, happens to be caſt away, in whatſoever Place it be, the Mariners ſhall be obliged to uſe their beſt Endeavours for ſaving as much of the Ship and Lading as poſſibly they can: And if they preſerve part thereof, the Maſter ſhall allow them a reaſonable Conſideration to carry them home to their own Country: And in caſe they ſave enough to enable the Maſter to do this, he may lawfully pledge to ſome honeſt Perſons ſuch part thereof as may be ſufficient for that occaſion. But if they have not endeavour'd to ſave as aforeſaid, then the Maſter ſhall not be bound to provide for them in any thing, but ought to keep them in ſafe Cuſtody, until he knows the Pleaſure of the Owners; in which he may act as becomes a prudent Maſter; for if he does otherwiſe, he ſhall be obliged to make Satisfaction.

OBSERVATION.

The Ship's Crew are oblig'd to do all that lies in their Power to ſave things from Shipwrack, and gather up what they ſave, on pain of looſing their Wages; and thoſe that hinder or diſſwade them from it, ſhall be ſeverely puniſh'd. This Law is very well explain'd by an Ordinance of King *Philip* II. of *Spain*, in the Year 1563. By which 'tis ordain'd, that the Seamen ſhall be bound to ſave as much as they can from Shipwrack; and in ſuch caſe, the Maſter is bound to pay them their Wages, and to give them a further Reward for their Labour out of the Goods: But if the Seamen refuſe to do their Endeavour to ſave the Goods, they ſhall neither have Pay nor Reward. *Hanſe* Towns, Ord. Artic. 44. *Wisbuy*, Artic. 15.

ARTIC. IV.

If a Veſſel departing with her Lading from *Bourdeaux*, or any other Place, happens in the Courſe of her Voyage to be render'd unfit to proceed therein, and the Mariners ſave as much of the Lading as poſſibly they can; If the Merchants require their Goods of the Maſter, he may deliver them if he pleaſes, they paying the Fraight in proportion to the part of the Voyage that is performed, and the Coſts of the Salvage: But if the Maſter can readily repair his Veſſel, he may do it; or if he pleaſes, he may fraight another Ship to perform his Voyage. And if he has promiſed the People who help'd him to ſave the Ship the third, or the half Part of the Goods ſav'd for the Danger they ran, the Judicatures of the Country ſhould conſider the Pains and Trouble they have been at, and reward them accordingly, without any regard to the Promiſes made them by the Parties concern'd in the Time of their Diſtreſs.

OBSERVATION.

This Law does not relate to an entire Loſs, but only to Salvage, or rather not to the Shipwrack, but to the diſabling of a Ship, ſo that ſhe cannot proceed in her Voyage without refitting. In which Caſe, the Merchants may have their Goods again, paying the Fraight in proportion to the Way the Ship made. If the Merchant has not Money to pay the Fraight, and the Maſter will not credit, the latter may take his Goods in Payment at the Market Price. *Wisbuy*, Artic. 33. the Emperor *Charles* V. Ordinance, Artic. 40.

If the Maſter can in a little time refit his Veſſel, and render her fit to continue her Voyage; that is, if he can do it in 3 Days time at the moſt, according to the *Hanſe* Town Laws; or if he will himſelf take Fraight for the Merchandize aboard another Ship bound for the ſame Port to which he was bound, he may do it; and if the Accident did not happen to him by any Fault of his, the Fraight ſhall be paid him, *Lege Rhodior. numb.* 42. *ſe-*

cunda

cundo & ultimo Tomo Juris Græco-Romani in fine. Wisbuy, *Article* 16, 37, & 55. King *Philip* II. of *Spain*'s Ordinance, under the Head of *Avarages*, Art. 30.

As for the Charges of *Salvage*, there are very great Allowances made to the *Salvers*, *lege Rhodior ſecundo Tomo Juris Græco-Romani*, *num.* 45, & 47. *Harmenopolus in Promptuario Juris*, *lib.* 2. *Tit.* 6. By this Law there was adjudg'd to the *Divers* and *Salvers*, the Half, the Third or the Tenth of the Things ſav'd, and that according to the Depth of the Water out of which they were fiſh'd, fifteen, eight or one Fathom; as alſo a tenth Part for *Salvage* on the Coaſt, and the fifth to him that ſaving himſelf, carries and ſaves ſomething with him. The Promiſes that are extorted in danger on this account, ought always to be regulated according to Juſtice, with Reaſon and Proportion, without keeping to the Expreſſions of ſuch Promiſes; for this there are ſeveral Laws in *France*, and an Inſtance of it is thus recorded. A Gentleman named *La Mothe*, embark'd at St. *Machaire* with two Horſes in a Boat, going for *Bourdeaux*; as they were in their Paſſage, one of the Horſes grew furious, and leap'd over-board. *La Mothe* held him by the Bridle; the Horſe ſplaſh'd the Water up in his Face, and the Gentleman pulling his Handkerchief out of his Pocket to wipe it off, at the ſame time pull'd out a Purſe that had thirty Piſtoles in it, which fell into the Water. The Boatmen came, and *La Mothe* deſir'd them to take notice of the Place, by obſerving the Trees and Buildings that were near it, and when the Tide was out, to ſeek after the Purſe; promiſing if they found it, to give them a Piſtole for their Pains. The Boat-men excuſed themſelves; nevertheleſs, when they had put *La Mothe* and his Horſes aſhoar, they went to look for the Piſtoles when 'twas low Water, and one of 'em found them where they were dropt. His Companions demanded their Share of them, but he who had the good Fortune to find the Purſe, would not let them have any of the Gold, and there was a Law-ſuit about dividing it, before the Judge of St. *Machaire*. Monſieur *La Mothe* hearing of it, came thither and put in his Claim to the Purſe and Piſtoles; but the Judge gave it againſt him. He then appeal'd to the Seneſchal of *Guyenne*'s Court, but with no better Succeſs; at laſt he appeal'd to the Parliament of *Bourdeaux*, and that Court decreed, he ſhould have his Piſtoles, but ſhould pay 60 Livres to the Boat-men for their Pains and Trouble.

ARTIC.

ARTIC. V.

If a Veſſel departing from one Port, Laden or Empty, arrives at another, the Mariners ſhall not leave the Ship without the Maſter's Conſent: If they do, and by that Means ſhe happens to be loſt or damnify'd, they ſhall be anſwerable for the Damage; but if the Veſſel be Moor'd, and lying at Anchor, with a ſufficient number of Men aboard to keep the Decks and Lading, they may go without the Maſter's Conſent, if they come back in good time; otherwiſe they ſhall be lyable to make Satisfaction, if they have wherewithal.

OBSERVATION.

This Article relating to Seamen, it will not be unacceptable to the Reader to obſerve what other Cuſtoms and Ordinances we have met with concerning them.

Mariners are obliged to look carefully after every thing that relates to the Preſervation of the Ship and Goods, *Wisbuy*, *Art.* 47. For which Reaſon, they ought not to go aſhoar and leave the Veſſel, without the Maſter or Mate's Permiſſion: If they do, they are bound to anſwer all the Damages that happen to the Ship or Merchandize in their Abſence, *Wisbuy*, *Article* 17. The Emperor *Charles* V's Ordinance in the Year 1552. *Article* 9, & 10. conformable to the *Rhodian* Law, *ſecundo Tomo Juris Græco-Romani*, *num.* 20. The Regulations of the *Hanſe* Towns, *Article* 40. ordain, That if any Seaman goes aſhoar without Licenſe, and if in his Abſence the Ship happens to be loſt for want of Hands, the Seamen thus abſent ſhall be apprehended, and kept a Year in Priſon on *Bread* and *Water*; and if any one ſhould be kill'd or drown'd in his Abſence, and that be the Cauſe of it, he ſhall be corporally puniſh'd. The ſame Ordinances condemn thoſe Mariners that lye out of their Ship all Night, to pay all the Damage that ſhall happen while they are abſent. Thoſe of the *Hanſe* Towns, *Articles* 22 & 23. add Impriſonment. Some Laws forbid them to undreſs themſelves, and the *Hanſe* Towns, *Article* 32. to lye with their Wives aboard. The Reaſon is, that they may always be ready to aſſiſt their Fellows in the Diſcharge of their

their Duty in the Preſervation of the Ship and Goods. The Obligation of the Mariner to the Maſter, begins as ſoon as he is hir'd and Terms are agreed; and ends when the Voyage is finiſh'd, and they are returned. The Obligation of the Mariner to the Merchant is from the beginning of his Charge, and the Mariner is obliged to ſtow and unſtow the Goods, according as the Place they are in is commodious or not, to keep them from damnifying, and promote or hinder the Ship's Trimming; and if by their refuſing to do ſo, the Merchandize is damnify'd or ſpoilt, they are bound to make the Damage good, *Wisbuy*, Article 48. *Philip* II. *Article* 19. By the Laws of *Wisbuy*, they are alſo bound to unlade ſome Goods with the Shovel, and ſome to hand aſhoar; for which they are to have no extraordinary Allowance; but for letting things up or down, they are by the ſame Laws to be allow'd ſomething extraordinary that is above their Wages. The Laws are very ſevere againſt thoſe Seamen that run away from Ships after they are hir'd. In Men of War Deſertion is puniſh'd with Death: In Merchant-men, by the *Hanſeatique Laws*, or thoſe of the *Hanſe* Towns, they are to be mark'd in the Face with a red hot Iron, that they may be known, and be Infamous as long as they live. If the Mariner runs away before the Voyage, when he is taken he ought to refund half as much as the Maſter was to have paid him for the whole Voyage. If he hires himſelf to two Maſters, the firſt may demand him, and by the *Hanſeatiques*, *Article* 1. is not bound to pay him any Wages. Proviſion is made for ſuch Seamen as run away only becauſe the Maſter has uſed them ill. By the ſame Laws, if any Maſter entices away a Mariner hir'd before by another, the laſt Maſter ſhall forfeit to the firſt 25 Livres, and the Mariner half the Wages he was to have had of the Maſter that ſo enticed him. That Maſter who knowingly hires a Mariner who was hir'd before, ſhall pay double the Wages he was to pay the Mariner, and the latter be bound to follow and ſerve the firſt Maſter. However, a Mariner may demand, and ought to have his Diſcharge, either before or during the Voyage, for theſe four Reaſons: In caſe he is made Maſter or Mate of another Ship; If he marries, and then he is oblig'd to refund what he has receiv'd; If he made any Proviſo in his Bargain for quitting the Ship; If the Voyage is finiſh'd, the Ship diſarm'd, unloaded and light, the Sails, Tackle and Furniture taken away and ſecur'd. *See the Laws of* Wisbuy, *Art.* 54 & 63.

If the Maſter gives a Mariner his Diſcharge, without any lawful Cauſe, and for his Pleaſure only; in caſe he does it before the Voyage,

Voyage, and while the Ship is in Port, he ought to pay half as much as he was to give him for the whole Voyage; but if he discharges him after the Ship is sail'd, he ought to pay him all his Wages. *Wisbuy*, *Artic.* 111.

By the *Hanseatiques*, the Master is to pay a third of the Wages only, and not to bring it to his Owners Account. He is obliged also to pay him not only all his Wages, if he discharges him in his Voyage, but to defray the Charge of his Return. If after a Bargain is made between the Master and Mariner, if the Voyage happens to be hinder'd by War or Pyrates, or any other lawful Account, the Mariner, according to King *Philip*'s Laws, *Artic.* 9. shall have a quarter Part of the Wages that were promised him for the Voyage; and the Master by a *French* Law shall have half the Fraight. A Master may turn off a Mariner if he finds he is ignorant in Maritime Affairs, and incapable to perform the Voyage, particularly a Pilot, to whom in such Cases he is not bound to pay any Wages, and at his Return may have him punish'd for his Rashness, according to King *Philip*'s and the *Hanseatique* Laws. If it happens that the Master finds out the Pilot or Mariner's Ignorance when he cannot discharge them, they shall be oblig'd at their Return to refund all the Money he had advanced to them, and pay the Master besides half what he had promised them: But if the Pilot declares first he is dubious, and can't depend on his Knowledge, that he is out of the way, and does not very well understand his Business; if it is when he is outward bound, he shall be paid half what was promised him; if homeward bound, all. If the Master finds that any Officer or Seaman aboard his Ship has any Infectious Distemper that is dangerous, he may put him ashoar at the first Place he comes to, without paying him any thing; but then he must prove it by two or three Witnesses. He may also turn away any thieving Mariner, or any quarrelsome or factious Fellow; but as to the latter, he shou'd have a little Patience, to see if he can be brought to Reason. *Vide* the *Hanseatiques*, Art. 29. and the Laws of *Wisbuy*, Art. 25.

ARTIC.

ARTIC. VI.

If any of the Mariners hired by the Maſter of any Veſſel, go out of the Ship without his Leave, and get themſelves drunk, and thereby there happens Contempt to their Maſter, Debates, or Fighting and Quarrelling among themſelves, whereby ſome happen to be wounded: In this Caſe the Maſter ſhall not be oblig'd to get them cur'd, or in any thing to provide for them, but may turn them and their Accomplices out of the Ship; and if they make Words of it, they are bound to pay the Maſter beſides: But if by the Maſter's Orders and Commands any of the Ship's Company be in the Service of the Ship, and thereby happen to be wounded or otherwiſe hurt, in that Caſe they ſhall be cur'd and provided for at the Coſts and Charges of the ſaid Ship.

OBSERVATION.

By the Laws of *Wisbuy*, Article 18. Thoſe Mariners that are Mutinous and Quarrelſome, are oblig'd to refund all they have received, and pay beſides what the Maſter is forced to give to others whom he hires in their Places above the Wages he was to give them.

The Laws of *Charles* V. Article 23. & ſeq. ordain certain Puniſhments, according to the Heinouſneſs of the Offences and Crimes committed by Seamen. If the Mariners are wounded, or any wiſe hurt in ſerving the Maſter of the Ship, they ſhall be cured, taken care of, and indemnify'd at the Charge of the Ship. *Wisbuy*, Artic. 18. *Hanſeatiques*, Artic. 39. *Charles* V. Artic. 27, & 28. *Philip* II. Artic. 16. If Mariners are taken by *Corſairs* in his and his Ship's Service, the Maſter is bound to redeem them, and beſides that, to pay them their Wages, during their Captivity, as much as if they had all that time been in his Service. This Law is in the *Conſulat*. Chap. 182. If in defending himſelf, or fighting againſt an Enemy or *Corſairs*, a Mariner is maim'd, or diſabled to ſerve on Board a Ship for the reſt of his Life, beſides the Charge of his Cure, he ſhall be maintain'd as long as he lives at the Coſt of the Ship and Cargo. *Vide* the *Hanſeatiques*, Art. 35. An Inſtance of this is told by our Author.

In the Year 1621. *Giles Eſteben*, a Citizen and Merchant of *Bourdeaux* loaded a Veſſel of 36 Tuns with Wine for *Calais*, and gave the Charge of the Cargo to one *Fiton* his Servant. The Veſſel ſet Sail, and when ſhe was at Sea met with a *Turkiſh* Rover. The *Corſair* came up with her, and took her, but did not meddle with the Veſſel or the Wine, either becauſe the *Alcoran* forbids the *Mahometans* to drink or deal in Wine, or becauſe he held Intelligence with the Maſter of the Veſſel, who was a *Scotchman*; for he did him nor any of his Crew no manner of Hurt, but took away *Fiton* and ſold him in *Barbary* for a Slave. He remain'd there four Years and a half in great Miſery and Poverty; at laſt he was redeem'd by Alms in the Year 1625. and paid for his Ranſom 780 Livres. *Fiton* returning to *Bourdeaux*, found that his Maſter *Eſteben* was dead; however, he enter'd an Action in an Inferior Court againſt the Widow, for his Wages, as well for the time he was detain'd in Slavery, as for that before his Captivity, as alſo for the Reimburſement of his Ranſom Money, his Loſſes and Intereſt. The Widow remov'd the Suit to the Higher Courts, and from thence it came before the Parliament, who decreed, that the Widow ſhould pay *Fiton* 1000 Livres in full for his Wages, Redemption, Expences, Loſs and Intereſt.

ARTIC. VII.

If it happens that Sickneſs ſeizes on any one of the Mariners, while in the Service of the Ship, the Maſter ought to ſet him on Shoar, to provide Lodging and Candle-light for him, and alſo to ſpare him one of the Ship-Boys, or hire a Woman to attend him, and likewiſe to afford him ſuch Diet as is uſual in the Ship; that is to ſay, ſo much as he had a Ship-board in his Health, and nothing more, unleſs it pleaſe the Maſter to allow it him; And if he will have better Diet, the Maſter ſhall not be bound to provide it for him, unleſs it be at the Mariner's own Coſt and Charges; and if the Veſſel be ready for her Departure, ſhe ought not to ſtay for the ſaid ſick Party: But if he recover, he ought to have his full Wages, deducting only ſuch Charges as the Maſter has been at for him. And if he dies, his Wife or next Kin ſhall have it.

OBSERVATION.

The 19*th* Article of the Laws of *Wisbuy*, the 45*th* of the *Hanſeatiques*, the 27*th* of *Charles* V. and the 16*th* of *Philip* II. which he compil'd for the *Low Countries*, were all founded upon this Law of *Oleron*, in what relates to a ſick Mariner, and agree exactly with it, both if he recovers his Health, or dies in the Voyage. The *Spaniards* have another Cuſtom in the *Weſt-India* Voyages: For in caſe a Mariner falls ſick, he muſt ſubſtitute another in his place, otherwiſe he loſes all his Wages for the time in which he could not work. By the *Hanſeatiques*, Artic. 45. If a Mariner is detain'd aſhoar by Sickneſs, the Voyage ought not to be retarded on his account. By *Charles* the V's Ordinances, If the Mariner dies as he is outward-bound, his Wife and Heirs ſhall receive half his Pay: If as he is homeward-bound, they ſhall have all, deducting the Charge of his Funeral, if there has been any. In Ships of War the Cuſtom in ſome Places has been more favourable to Sailors; for we find in a Treatiſe written by *Francis Pyrard de Laval*, entituled, *Advis pour aller aux Indies Orientales*, That if a Man died the firſt Day of the Voyage, his Heirs were to be paid as much as if he had compleated it.

ARTIC. VIII.

If a Veſſel be laden to ſail from *Bourdeaux* to *Caen*, or any other Place, and it happens that a Storm overtakes her at Sea, ſo violent, that ſhe cannot eſcape without caſting ſome of the Cargo over-board, for lightning the Veſſel, and preſerving the reſt of the Lading, as well as the Veſſel it ſelf; then the Maſter ought to ſay, *Gentlemen, We muſt throw part of the Goods over-board*; And if there are no Merchants to anſwer him, or if thoſe that are there approve of what he ſays by their Silence, then the Maſter may do as he thinks fit, and if the Merchants are not pleaſed with his throwing over any Part of the Merchandize, and forbid him, yet the Maſter ought not to forbear caſting out ſo many of the Goods as he ſhall ſee to be for the common Good and Safety; he and the third part of his Mariners making Oath on the Holy Evangeliſts, when they arrive at their Port of Diſcharge, that he did it only for the Preſervation of the Veſſel, and the reſt of the Lading that remains yet in her. And the Wines (or other Goods) that were caſt overboard, ought to be valued or prized according to the juſt Value of the other Goods that arrive in Safety: And when theſe ſhall be ſold, the Price or Value thereof ought to be divided *Livre a Livre* among the Merchants. The Maſter may compute the Damage his Veſſel has ſuſtained, or reckon the Fraight of the Goods thrown over-board at his own Choice. If the Maſter does not make it appear that he and his Men did the Part of able Seamen, then neither he nor they ſhall have any thing. The Mariners alſo ought to have one Tun free, and another divided by Caſt of the Dice, according as it ſhall happen, and the Merchants in this Caſe may lawfully put the Maſter to his Oath.

OBSERVATION.

Of two Evils, to chooſe the leaſt is the Law of Nature as well as of Nations; and when a Ship is in danger of periſhing, the Lives of the Seamen, and the Safety of the reſt of the Cargo make the throwing part of it overboard the leaſt Evil: But that the Maſter's Ignorance or Fear might not hurry him to do any thing to the detriment of the Merchant, without good Grounds for it, he muſt conſult the Merchants, Paſſengers, or Mariners aboard his Ship, and, according as the neceſſity of it appears to them, to throw the Goods overboard. This he is warranted to do by the *Rhodian* Law. *Secundo Tomo Juris Græco-Romani, num.* 9. and by 20*th*, 21*ſt* & 38*th* Articles of that of *Wisbuy*. The 20*th* and 38*th* Articles provide alſo, That if the Merchants alone are againſt the Propoſition of throwing the Merchandize overboard, and the reſt, who have their Lives and Goods alſo to loſe, conſent to it; the Maſter and third part of the Seamen purging themſelves as ſoon as they come aſhoar by Oath, that neceſſity forc'd them to do it, and that otherwiſe they could not have been ſav'd, may do it, and ſhall then be juſtify'd for what they did. The Maſter is not obliged, when he comes to this Extremity, to throw his own Goods overboard firſt. The Cuſtom of the *Levant* is, the Traveller or Merchant firſt flings out ſomething of his own. *Philip* the II's Ordinances, under the Title of *Avaridges*, require, That the Ship's Utenſils ſhould be firſt thrown overboard; ſuch as old Cables, Firewood, Anchors and Guns, which weigh heavy, and are not of the greateſt Service; then the Cheſts belonging to the Ship's Crew, as being of the leaſt Value. All thoſe things which are thrown overboard come into an Avaridge, except thoſe that belong to the Soveraign.

By the 38*th* Article of the Laws of *Wisbuy*, The Clerk of the Ship ought to regiſter all the Goods, that are thrown overboard; and if there is no Clerk aboard, 'tis convenient for the Mariners to make Atteſtation of them at the firſt Port they come to.

By the *Rhodian* Laws, The Goods that are damag'd by the Storm come into an Avaridge. By the ſame Laws, If the Maſter, by over-loading his Ship, is the occaſion of the Goods being thrown overboard, he ſhall make good the Damage. The Laws of *Wisbuy*, Article 46. except in this Caſe thoſe Goods which were ſo loaden with the Conſent of the Merchant. If the Maſter has let out more Fraight than he has Stowage for, he muſt not therefore

therefore over-load his own Ship, but by the *Conſulate* is bound to find Fraight for them in another. If the Merchants, Paſſengers or Mariners have any Plate or other precious Goods in their Cheſts or Cabinets, they ought to inform the Maſter and Clerk of it, otherwiſe their Cheſts will not be liable to any *Avaridge* for any thing more than what is known to be within them. Perſons never are reckon'd in an *Avaridge*, but all ſorts of Goods whatſoever. Victuals belonging to the Ship are exempted from the Laws for throwing Goods overboard, and privileged from paying Contributions in *Avaridges*. Seamens Wages are not liable to *Avaridges*. By the *Hanſeatiques*, Artic. 28. Theſe Wages ought to be paid by three Payments, a third Part before the Ship goes out of the Port, a third Part when ſhe's unladen, and a third Part at her Return.

By the *Rhodian* Law, The Sailors ought to have a Tun Fraight free from Contributions in *Avaridges*, when Goods are thrown overboard. To explain this it will be neceſſary to obſerve, That Sailors were uſed to hire themſelves out for a Voyage for ſeveral Conſiderations: Some had a certain Sum of Money for the whole Voyage, or ſo much a Month, or ſo much a Day; Others hir'd themſelves for ſuch a Proportion of the Fraight, or a Liberty to load ſo much Goods aboard, or let out ſo much Fraight to others: But the moſt common Way, and the beſt of hiring themſelves, was for Part in Wages, and Part in Fraight, either for themſelves, or to let out. Thoſe Seamen who had Wages only, contributed nothing to the *Avaridge* for Goods thrown overboard. Thoſe who had Goods contributed, unleſs thoſe Goods were bought with their Wages, and they had only one Tun exempted. The Merchants who hir'd their Fraight of them, had the ſame Privilege by it as themſelves.

Having had occaſion to make mention of *Livre a Livre*, an Explanation of it will not be unacceptable to the Reader. The Civilians conſider every thing as on *Whole*; as for Example, An Inheritance compoſed of ſeveral Parts, makes together one whole or Maſs of Inheritance, of whatever Importance it may be, Great or Small, as if the whole of his Inheritance made one *Livre*, one Pound, *As Hereditatis*. This Pound divided into twelve equal Parts, is nam'd *Ounces*. The Merchants and Maſters of Ships, in caſe of *Avaridges* for Goods thrown overboard or damnify'd in Storms, have the ſame View; that is, they conſider the Ship and Cargo together as one Pound, and the Goods loſt or damnified as another; ſo that he who had a Tenth in the Pound of the Cargo, a Fifteenth or any other Share, muſt carry a Tenth, a Fifteenth, or any

any other Share to the Pound of the *Avaridge*; and this Proportion of one Pound to another, is what is called by the *French*, *Naval* Laws, *Livre a Livre*, Pound to Pound.

ARTIC. IX.

If it happen, that by reaſon of much foul Weather the Maſter is like to be conſtrain'd to cut his Maſts, he ought firſt to call the Merchants, if there be any aboard the Ship, and ſuch as have Goods and Merchandize in the Veſſel, and to conſult them, ſaying, *Sirs, It is requiſite to cut down the Maſt to ſave the Ship and Lading, it being in this caſe my Duty.* And frequently they alſo cut their Moaring Cables, leaving behind them their Cables and Anchors to ſave the Ship and her Lading. All which things are reckon'd and computed *Livre* by *Livre*, as the Goods are that were caſt overboard. And when the Veſſel arrives in Safety at her Port of Diſcharge, the Merchants ought to pay the Maſter their Shares or Proportions without delay, or ſell or pawn the Goods, and imploy the Money he raiſes to ſatisfie by it the ſame, before the ſaid Goods be unladen out of the ſaid Ship: But if he lets them go, and there happens Controverſies and Debates touching the Premiſſes, if the Maſter obſerves Colluſion therein, he ought not to ſuffer, but is to have his compleat Fraight, as well for what Goods were thrown overboard, as for what he brought home.

OBSERVATION.

No Merchant is oblig'd to pay *Avaridge* for Goods thrown overboard, unleſs the Maſter can prove he did it for the Safety of his own and his Mens Lives, and the Preſervation of the Ship and the reſt of her Cargo. What Loſs happens by Accidents, breaking the Maſts, or burning the Sails, or Pirates taking part of the Goods, ſhall not come into the common *Avaridge*. By the *Rhodian* Laws, every Merchant ſhall bear his own Loſs, and the Maſter ſhall do the ſame. See alſo the 12*th* Article of the Laws of *Wisbuy*.

Wisbuy. *Avaridges* are by that to be paid for Damages done *ad Intra*, and not for thoſe *ad Extra*; therefore the Maſter and Mariners are oblig'd to purge themſelves by Oath, how the Damage came, in the firſt Court of Admiralty they come to, and that 'twas done in very great Neceſſity. Indeed if Pirates take the Ship and Cargo entire, and both are redeem'd for a Sum of Money, the *Avaridge* for that ſhall be common, and all the concern'd ſhall pay Contribution. If the Merchants and Paſſengers aboard the Ship deſire the Maſter to put into any Port out of his way for fear of Pirates, and in going out of that Port he loſes Anchors or Cables, thoſe who deſire him to put in there ſhall pay for them, and the Ship ought not to pay any thing toward that Loſs. After a general Shipwrack there is no *Avaridge* or common Contribution, but *Save who Save can*, as is vulgarly ſaid on this occaſion. If any Goods that were thrown overboard in a Storm, to lighten the Ship, happen to be recover'd, the Owner of them ought to reſtore what he had recover'd for Damages by *Avaridge*, to thoſe that paid him, deducting for the Loſs he may be at by his Merchandize being damnify'd. The *Rhodian* Law enjoyns this.

ARTIC. X.

The Maſter of a Ship, when he lets her out to Fraight to the Merchants, ought to ſhew them his Cordage, Ropes and Slings, with which the Goods are to be hoiſted aboard or aſhoar: And if they find they need mending, he ought to mend them; for if a Pipe, Hogſhead or other Veſſel, ſhould happen by default of ſuch Cordage or Slings to be ſpoil'd or loſt, the Maſter and Mariners ought to make ſatisfaction for the ſame to the Merchants. So alſo if the Ropes or Slings break, the Maſter not ſhewing them before-hand to the Merchants, he is obliged to make good the Damage: But if the Merchants ſay the Cordage, Ropes or Slings are good and ſufficient, and notwithſtanding it happens that they break, in that caſe they ought to divide the Damage between them; that is to ſay, the Merchant to whom ſuch Goods belong, and the ſaid Maſter with his Mariners.

OBSERVATION.

By the 12*th* Article of the Laws of *Wisbuy*, and the 7*th* of King *Philip*'s, The Maſter when he lets his Ship out to Fraight, is bound to ſhew her to the Merchant or their Agents. The *Conſulate* requires the ſame, and that the Maſter ſhould let the Merchants viſit not only the Ropes, but all the Ship above Decks and below, that they may ſee what is wanting, and have it mended; and if it is not mended, and the Merchandize is damnify'd, the Maſter ſhall make good the Loſs. The 49*th* Article of the Laws of *Wisbuy* enjoyn the Mariners to give the Maſter Notice of the Faults and Defects in the Cordage; otherwiſe they ſhall be reſponſible for all Accidents that may happen: And if after ſuch Notice given, the Maſter does not take care to have them mended, he ſhall anſwer the Damage out of his own Pocket.

The *Rhodian* Laws, *Secundo Tomo Juris Græco-Romani, numero* 11. Wills and Ordains, That the Merchant who loads a Ship, ſhall inform himſelf exactly of every thing, *Diligenter interrogare debet Mercatores qui prius in ea Navi navigaverunt.* The Law ſays, he ſhould enquire of thoſe that have ſail'd in her before; but that is of little uſe, except as to her Sailing, for Ships grow daily more and more out of Repair, and ſhou'd be always view'd by the Perſon that is going to be concern'd in them, without truſting to the Information of others.

ARTIC. XI.

If a Veſſel being laden at *Bourdeaux* with Wines, or other Goods, hoiſts Sail to carry them to ſome other Port, and the Maſter does not do his Duty as he ought, nor the Mariners handle their Sails, and it happens that ill Weather overtakes them at Sea; ſo that the Main-yard ſhakes or ſtrikes out the Head of one of the Pipes or Hogſheads of Wine; this Veſſel being ſafely arriv'd at her Port of Diſcharge, if the Merchant alledges, That by reaſon of the Main-yard his Wine was loſt; and the Maſter denies it: In this Caſe the Maſter and his Mariners ought to make Oath (whether it be 4 or 6 of them, ſuch as the Merchant hath no exception againſt) that the Wine periſh'd not by the Main-yard, nor through any Default of theirs, as the Merchants charge them, they ought then to be acquitted thereof; But if they refuſe to make Oath to the effect aforeſaid, they ſhall be oblig'd to make Satisfaction for the ſame, becauſe they ought to have order'd their Sails aright before they departed from the Port, where they took in their Lading.

OBSERVATION.

This Article is explain'd by the 23*d* of the Laws of *Wisbuy*, which Ordains, That if the Cargo is ill ſtow'd, and the Ship ill trimm'd, and the Mariners do not manage their Sails rightly, and any Damage happens by it to the Ship or Goods, they ſhall be reſponſible for the Damages as far as they have wherewithal to do it with. There were formerly in ſeveral Ports of *Guyenne* certain Officers call'd *Arrameurs*, or *Stowers*, who were Maſter Carpenters by Profeſſion, and were paid by the Merchants, who loaded the Ship. Their Buſineſs was to diſpoſe right, and ſtow cloſely all Goods in Casks, Bales, Boxes, Bundles or otherwiſe; to balance both Sides, to fill up the vacant Spaces, and manage every thing to the beſt Advantage. 'Twas not but that the greateſt part of the Ships Crew underſtood this as well as theſe *Stowers*; but

but they would not meddle with it, nor undertake it, to avoid falling under the Merchant's Diſpleaſure, or being accountable for any ill Accident that might happen by that means. There were alſo *Sacquiers*, which were very Ancient Officers, as may be ſeen in the 14*th* Book of the *Theodoſian Code*, *Unica de Saccariis Portus Romæ*, *lib.* 14. Their Buſineſs was to load and unload Veſſels loaden with Salt, Corn, or Fiſh, to prevent the Ship's Crew defrauding the Merchant by falſe Tale, or cheating him of his Merchandize otherwiſe.

ARTIC. XII.

A Maſter having hir'd his Mariners, ought to keep the Peace betwixt them, and to be as their Judge at Sea; ſo that if there be any of them that gives another the Lie, whilſt they have Wine and Bread on the Table, he ought to pay four *Deniers*; And if the Maſter himſelf give any the Lie, he ought to pay eight *Deniers*; And if any of the Mariners impudently contradict the Maſter, he alſo ought to pay eight *Deniers*; and if the Maſter ſtrike any of the Mariners, he ought to bear with the firſt Stroke, be it with the Fiſt or open Hand; But if the Maſter ſtrikes him more than one Blow, the Mariner may defend himſelf: But if the ſaid Mariner doth firſt aſſault the Maſter, he ought to pay five *Sols*, or loſe his Hand.

OBSERVATION.

This Law reſtrains the Correction of the Maſter to one Blow with his Fiſt, which the Mariner ought to bear, and no more. The *Conſulate*, Chap. 16. explains how far the Mariner is bound to ſuffer his Maſter's aſſaulting him, in theſe Terms; *The Mariner is oblig'd to obey his Maſter, tho' he ſhould call him ill Names, and is enrag'd againſt him, he ought to keep out of his ſight, or hide himſelf in the Prow of the Ship; If the Maſter follows him, he ought to fly to ſome other Place from him; and if he ſtill follows him, then the Mariner may ſtand upon his Defence, demanding Witneſſes how he was purſu'd by the Maſter; for the Maſter ought not to paſs into the Prow after him.*

The 24*th* Article of the Laws of *Wisbuy* puniſhes the giving the *Lie*. The ſame Article is very ſevere againſt the Mariner that ſtrikes the Maſter. The Mariner that ſtrikes, or lifts up Arms againſt his Maſter, was to loſe half his Hand in a very painful way. If the Mariner has committed a Crime too great for the Maſter's Authority to puniſh, then the Maſter and his Officers ought to ſeize the Criminal, put him in Irons, and bring him to Juſtice at his Return.

ARTIC. XIII.

If a Difference happens between the Maſter of a Ship, and one of his Mariners, the Maſter ought to deny him his *Meſs* thrice, e'er he turn him out of the Ship, or diſcharge him thereof: But if the ſaid Mariner offer in the Preſence of the reſt of the Mariners to make the Maſter Satisfaction, and the Maſter be reſolved to accept of no Satisfaction from him, but to put him out of the Ship; In ſuch Caſe the ſaid Mariner may follow the ſaid Veſſel to her Port of Diſcharge, and ought to have as good Hire or Wages, as if he had come in the Ship, or as if he had made Satisfaction for his Fault in the ſight and preſence of the Ship's Company; And if the Maſter take not another Mariner into the Ship in his ſtead, as able as the other, and the Ship or Lading happens thereby to be, through any Misfortune, damnify'd, the Maſter ſhall be oblig'd to make good the ſame, if he hath wherewithal.

OBSERVATION.

To deny him his *Meſs*, is in the Original, *Oſter la Touaille*, an old *Gaſcon* Phraſe, which ſignifies to deny him the Table-Cloath or Victuals for three Meals; by which is underſtood a Day and half. The *Wisbuy* Law, Article 25. provides for the Maſter's making Satisfaction for the Damages that may happen through the want of the Mariner he turns off. And the *Hanſeatiques*, Article 27. require the Maſter not to give the Seamen any cauſe to mutiny; not to provoke them, call them Names, wrong them,

them, nor keep any thing from them that is theirs; but to uſe them well, and pay them honeſtly what is their due. Some *French* Laws ordain, That no Mariner ſhould be admitted under 18 Years, nor above 50. The Choice of the Crew is intirely in the Maſter: the Reaſon is, that he ought to be himſelf very well aſſur'd of his Seamen's Ability, and not take it upon Truſt by Report of others.

ARTIC. XIV.

If a Veſſel being moar'd lying at Anchor, be ſtruck or grappled with another Veſſel under Sail that is not very well ſteer'd, whereby the Veſſel at Anchor is prejudic'd, as alſo Wines, or other Merchandize in each of the ſaid Ships damnify'd. In this Caſe the whole Damage ſhall be in common, and be equally divided and appriz'd half by half; and the Maſter and Mariners of the Veſſel that ſtruck or grappled with the other, ſhall be bound to ſwear on the Holy Evangeliſts, that they did it not willingly or wilfully. The Reaſon why this Judgment was firſt given, being, that an old decay'd Veſſel might not purpoſely be put in the way of a better, which will the rather be prevented when they know that the Damage muſt be divided.

OBSERVATION.

This Law agrees exactly with the 26, 50, 67 and 70*th* Articles of the *Ordinances* of *Wisbuy*. The dividing the Loſs in halves, is, to prevent any Cheat; for an old Veſſel that's worth little or nothing, might elſe be put in a new one's way: and if ſhe runs againſt her, more Damages be pretended, than the old Ship might fairly be valued at.

ARTIC.

ARTIC. XV.

Suppoſe two or more Veſſels in a Harbour where there is but little Water, ſo that the Anchor of one of the Veſſels lie dry; the Maſter of the other Veſſel ought, in that Caſe, to ſay unto him whoſe Anchor lies dry; Maſter, *Take up your Anchor, for it is too nigh us, and may do us a Prejudice:* If neither the ſaid Maſter nor his Mariners will take up the ſaid Anchor accordingly, then may that other Maſter and his Mariners (who might be otherwiſe thereby damnify'd) take up the ſaid Anchor, and let it down at a farther Diſtance from them; and if the others oppoſe or withſtand the taking up of their Anchor, and there afterwards happens Damage thereby, they ſhall be bound to give full Satisfaction for the ſame: But if they put out a Buoy or Anchor-mark, and the Anchor does any Damage, the Maſter and Mariners to whom it belongs are not bound to make it good; if they do not, they are; for all Maſters and Mariners ought to faſten ſuch Buoys or Anchor-marks, and ſuch Cables to their Anchors, as may plainly appear and be ſeen at full Sea.

OBSERVATION.

The 28*th* and 51*ſt* Articles of the *Ordinances* of *Wisbuy*, require Maſters to put out Buoys to warn others where their Anchors lie, on pain of making Satisfaction for whatever Damage may happen for want of them: For Anchors hid under Water, may do a great deal of Miſchief at Ebb and Low Water. If any Maſter ſpies them, and they lie near him, he may remove them and prevent any Damage coming to his Ship. *Harmenopulus in Promptuario Titulo de Rebus Nauticis, Licet in diſcrimen adductis, qui ſe aliter explicare non poſſunt, alterius Navis Anchoras Salutis ſuæ cauſa præcidere.* The Buoys that are made uſe of, are either empty Barrels, or Pieces of the Trunk of a Tree, or any other light Wood with Baskets that ſwim on the Top of the Water, and ſhews where the Anchors lie.

ARTIC.

ARTIC. XVI.

When a Ship arrives with her Lading at *Bourdeaux* or elſewhere, the Maſter is bound to ſay to his Company, when ſhe is ready to load again, *Gentlemen, Will you fraight your own Share your ſelves, or be allow'd for it in Proportion with the Ship's general Fraight:* The Mariners are bound to anſwer one or the other. If they take as the Fraight of the Ship ſhall happen, they ſhall have proportionably as the Ship hath; and if they will fraight by themſelves, they ought to fraight ſo as the Ship be not impeded or hinder'd thereby. And if it ſo happen, that they cannot let out their Fraight, or get Goods themſelves, when he has tender'd them their Share or Stowage, the Maſter is blameleſs; and if they will there lade a Tun of Water inſtead of ſo much Wine, they may: And in caſe there ſhou'd happen at Sea, an Ejection or a caſting of Goods overboard, the Caſe ſhall be the ſame for a Tun of Water, as for a Tun of Wine, or other Goods, *Livre* by *Livre*. If they let out their Proportion of Fraight to Merchants, what Freedom and Immunity the ſaid Mariners have, the ſaid Merchants ſhall alſo have.

OBSERVATION.

This Article has ſome Relation to the 8*th*, which treats of Mariners Wages and their Fraight aboard. The 30*th* Article of the Laws of *Wisbuy* is founded upon it. By the Seamen's Immunity, is meant the Privilege of being the laſt that muſt throw overboard in a Storm, and having a Tun free from all *Avaridges*. The Mariners Fraight ſhould be firſt full; for the Maſter is not oblig'd to ſtay for them when his Cargo is all aboard. The Reaſons given by our Author, why in caſe of throwing overboard, the Mariners Tun of Water ſhall come in equally in the Avaridge, *Livre a Livre*, for a Tun of Wine, are, A Mariner may make what uſe he pleaſes of his *Stowage*, becauſe he takes it as part of his Pay: Beſides, in ſuch Caſe the Water he has aboard lightens the

the Ship as much as if it was Wine. And the Mariner by throwing over his Water, which by his Privilege he may refuſe to do, not only helps to ſave the Ship and Cargo, but to ſave the latter the more entire; for if any thing the Merchant had aboard, of more Value than Wine, ſtood before his Tun of Water, it muſt have gone firſt, and his throwing his Water overboard being ſo much for the Common Intereſt of the Ship and Cargo, he is allow'd to come in upon an Avaridge as if it had been a Tun of Wine. How far this Law of *Oleron* prevails in our Maritime Courts now, the *Civilians* muſt determine; but by the Common Law of *England*, a Tun of Water wou'd never be rated *Livre a Livre*, Pound by Pound, with a Tun of Wine.

ARTIC. XVII.

The Mariners of *Britany* ought to have but one Meal a Day from the Kitchin, becauſe they have Beverage going and coming. But thoſe of *Normandy* are to have two Meals a Day, becauſe they have only Water at the Ship's Allowance; and when the Ship arrives in a Wine Country, there the Maſter ſhall procure them Wine to drink.

OBSERVATION.

The Cuſtom of giving every Man a certain Allowance is very ancient, and to prevent Jealouſies, Complaints and Diſorders, that Allowance is ſettled at ſo much a Head, and exactly deliver'd out to all alike. As to the Allowance of Wine and Meals by this Article, the 29*th* of the *Ordinances* of *Wisbuy* agrees with it. In thoſe Voyages where Wine is to be had, the Maſter is bound to provide it for the Mariners, and then they ſhall have but one Meal a Day. But when they drink Water only, they ſhall have two Meals. *Charles* V. and *Philip* II's Laws ordain, that the Maſter ſhall order the Mariners to have three certain Meals a Day, and if they would have more Meat, they ſhall only have what was laſt at their Meals, unleſs upon extraordinary Occaſions. By the 52*d* Article of the *Hanſeatiques*, the Maſter of *German* Ships bound for *France* and *Spain*, are not to provide Victuals for their Mariners when they are outward bound; but when they are homeward bound, if the Ship is let out to Fraight and loaden, the Maſters are oblig'd to maintain their Mariners; if they return light or empty

empty they are not oblig'd. The *Portugueze* in their *East-India* Voyages, maintain both Mariners and Soldiers outward bound, and allow each a Pound and a half of Bisket, 3 Pints of Wine, and 3 Pints of Water a Day, and 31 Pound of Salt Fish a Month, some dry Fish, Garlick and Onions. But in their homeward bound Voyages, they have only Biskets and Water to the Cape of *Good Hope*, and after that they live every Man on his own Provision.

——Facilis descensus ad Indos:
Sed revocare gradum, veteremque evadere ad Orbem,
Hoc Opus, hic Labor est——.

In Cases of Necessity, when Provisions fall short, those that have Victuals aboard ought to communicate to those that have not, by the *Rhodian* Law.

ARTIC. XVIII.

When a Vessel is unladen, and the Mariners demand their Fraight, some of them having neither Bed, Chest, nor Trunk aboard, the Master may lawfully retain part of their Wages, till they have brought back the Ship to the Port from whence she came; unless they give good Security to serve out the whole Voyage.

OBSERVATION.

The 31*st* Article of the *Ordinances* of *Wisbuy* agrees exactly with this. The Seamens Wages are not regularly due till after their Work is entirely done, or the Time they hir'd themselves for expir'd; except there are any private Agreements to the contrary. The 28*th* Article of the *Hanseatiques* ordains, that their Wages should be paid at three several Payments; one Third when they set Sail upon a Voyage, one Third when they arrive at their Port of Discharge, and the other Third when the Ship is return'd home.

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ARTIC. XIX.

If the Maſter hire the Mariners in the Town to which the Veſſel belongs, either for ſo much a Day, Week or Month, or for ſuch a Share of the Fraight; and it happens that the Ship cannot procure Fraight in thoſe Parts where ſhe is arriv'd, but muſt ſail further to obtain it: In ſuch Caſe, thoſe that were hir'd for a Share of the Fraight, ought to follow the Maſter, and ſuch as are at Wages ought to have their Wages advanc'd *Courſe* by *Courſe*, that is, in Proportion to the length of the Voyage, in what 'twas longer than they agreed for, becauſe he hir'd them to one certain Place. And if they go not ſo far as that Place for which the Contract was made, yet they ought to have the whole promis'd Hire, as if they had gone thither; but they ought likewiſe to bring back the Veſſel to the Place from whence ſhe at firſt departed.

OBSERVATION.

This Article is explain'd by the 8*th* and 16*th*, and what is ſaid upon them. The 32*d* of the Laws of *Wisbuy*, the 12*th* and 13*th* of *Charles* V. and the 24*th* of the *Hanſeatiques* are to the ſame purpoſe. By the 9*th* Article of *Philip* II's Laws, if the Voyage is broken off by Wars, Pirates, or the Command of the *Sovereign*, the Seamen ought to have a Quarter-part of the Wages they agreed to have, if they had compleated it. In the Year 1626. about *October*, all the *Engliſh* Ships that were then in the River of *Bourdeaux*, were ſtopt by Order of Monſieur *de Luxemburgh*, Governour of *Blaye*. Several of theſe Ships were loaden with Wine, and others with other Merchandize. They were forc'd to return to *Bourdeaux*, and unload; after which the Maſters demanded the whole Fraight of the Merchants who had fraighted them, by Virtue of the Law. *Colonus* §. *Navem conduxit. D. Locati.* Inaſmuch as it was not their Faults that they did not make their Voyage, and carry the Goods to their intended Port: The Fraight was then 15 or 16 Livres a Tun: The Admiralty Court adjudg'd them a Quarter-part of it; they appeal'd to the *Sovereign* Court, who

who after two Hearings ſet aſide their Appeal. Which Inſtance of our Author, makes ſomewhat againſt his own Remarks.

ARTIC. XX.

When a Veſſel arrives at *Bourdeaux*, or any other Place, two of the Mariners at a time may go aſhore, and take with them one Meal of ſuch Victuals as are in the Ship, therein cut and provided; as alſo Bread proportionably as much as they eat at once, but no Drink: And they ought very ſpeedily, and in ſeaſon, to return to their Veſſel, that thereby the Maſter may not loſe his Tide; for if ſo, and Damage come thereby, they are bound to make Satisfaction; or if any of their Company be hurt for want of their Help, they are to be at ſuch Charge for his Recovery, as one of his Fellow Mariners, or the Maſter, with thoſe of his Table, ſhall judge convenient.

OBSERVATION.

The Reaſon of this Law ceaſes now for *Bourdeaux*, for which Place 'twas originally intended: For the River is ſo full of Eating-Houſes and Taverns on both ſides, that 'tis not likely Sailors will carry any of their Salt Proviſions aſhore, when they can get freſh. Conſidering that before the late Wars, we in *England* us'd to import incredible Quantities of Wine from this Province; The curious Merchant will not be diſpleas'd to ſee what Remarks our *French* Author makes on the Plenty of Wine there lately, and the Scarcity of it in former times. *The too great Abundance of Wine, is now the Cauſe of the Ruin of the Province of* Guienne, *of which Wine was formerly the greateſt Treaſure,* D. Ferronus *ad conſuetudines Burdegal.* §. 20. *Titulo de Feudis ſubfinitis. Vineyards have lately been the Ruin of the Owners, as well on account of the great Charge of Cultivating and Maintaining them, as on account of the frequent Storms and Inclemency of the Air, there being no Plant more weak and tender than the Vine, as Monſieur* Mornac *very well obſerves in his Comment upon the Law,* Si. Colonus, D. Locati, *and Monſieur* Meſuil *one of the King's Counſellors in the Parliament of* Tolouſe, *in the Second Book of his Notable Queſtions,*

Chap. 16. Job. cap. 15. *For when any Accidents happen to the Vineyard, which hinder their Flouriſhing, the Owner is oblig'd to plant new Shoots, and to be at the greateſt Pains in the Culture of his ſickly Vines.* Columella, Lib. 4. Chap. 3. *Namque hic Uſus in noſtram venit Ætatem, ut Rus quod ſolebat alere nunc alatur, & qui hæc Opera intermittit amittit,* Symmachus Epiſtola 5. l. 1. *In thoſe Years when the Vintage is good, whatever Wine is made, as to Quantity, or Quality, two Thirds of it muſt be conſum'd or waſted at home; there being not above one third of it exported. To prevent the Waſte of it no other Expedient can be found, but by ſetting up Taverns and Tippling Houſes; which of Conſequence caus'd Debauchery.* To return to our 20*th* Law of *Oleron*, the Reaſon of it was to keep the Seamen in Health and Vigour: For by encouraging them to go aſhore, two at a time, when their Attendance was not neceſſary aboard, the Maſter gave them an Opportunity to refreſh themſelves at Land, which is the beſt Remedy in the World for the Scurvy, contracted a Ship-board by living on Salt Meats and Dry Bisket, and being crowded up in a cloſe Place for a conſiderable Time: Their Eating Freſh Proviſions, and Breathing the free Air at Land, makes 'em ſtrong, and the better able to go thro' their Buſineſs. 'Twas not lawful for Mariners to be drunk, nor to feaſt a Ship-board, unleſs there was good Cauſe for their Feaſting, and the Maſter allow'd it. As we find by the 31*ſt* Article of the *Hanſeatiques*, and the Old Law of *Rhodes*, *Vector in Navi piſcem ne frigito, & Exercitor id ei ne permittito. As one of his Fellow Mariners:* In the Original 'tis *Son Matelot*, which we in *Engliſh* call Comrade; for 'tis the Cuſtom at Sea to divide all the Ship's Crew into *Couples:* Every two are Comrades; and this the *French* call *Matelotage.* Theſe two Companions, or Comrades, ſhould be loving and aſſiſting to one another. Their Task is generally the ſame, and they are always poſted together. *Thoſe of his Table:* The Mariners in *Spaniſh* Ships dreſs their Meat, and pay for it, each Man for himſelf; but in the *Engliſh*, *Dutch*, *German* and *French*, there is always a Cook, and the Seamen eat all together at the ſame Table, ſix in a Meſs. There is commonly two Tables; the Maſter's which is ſerv'd with a Table-Cloth; and there himſelf and his Officers eat; and the Mariners, where they have their *Meſſes.*

ARTIC.

ARTIC. XXI.

If a Maſter fraight his Ship to a Merchant, and ſet him a certain Time within which he ſhall lade his Veſſel, that ſhe may be ready to depart at the Time appointed, and he lade it not within the Time, but keep the Maſter and Mariners by the ſpace of Eight Days, or a Fortnight, or more, beyond the Time agreed on, whereby the Maſter loſes the Opportunity of a Fair Wind to depart. The ſaid Merchant in this Caſe ſhall be oblig'd to make the Maſter Satisfaction for ſuch Delay, the Fourth Part whereof is to go among the Mariners, and the other Three Fourths to the Maſter, becauſe he finds them their Proviſions.

OBSERVATION.

The 34*th* Article of the *Ordinances* of *Wisbuy*, and the 39*th* of the Emperor *Charles* V. are entirely agreeable to this *Law*. By the *Hanſeatiques* and *Philip* II's. the Merchant is oblig'd to pay the whole Fraight, if he does not load the Ship in 15 Days after the Time agreed upon; and by the *Theodoſian* Code *de Naviculariis*, When a Veſſel arrives in a Port loaden, the Merchant to whom the Cargo belongs, muſt unload in 10 Days; but in our Times, on account of *Holydays* and *Sundays*, the common Time for unloading a Ship is 15 Days: But that ſhould not hinder the paying the Fraight, which ought to be clear'd in 8 Days, whether the Ship be diſcharg'd or not. The Maſter for his Pay, cannot detain the Merchandize aboard; but when they are in the Boat or Lighter, he may ſtop them till he is ſatisfy'd.

ARTIC. XXII.

When a Merchant fraights a Veſſel at his own Charge, and ſets her to Sea, and the ſaid Veſſel enters into an Harbour, where ſhe is Wind-bound, ſo that ſhe ſtays till her Monies be all ſpent, the Maſter in that Caſe ought ſpeedily to write home to his own Country for Money; but ought not to loſe his Voyage on that Account; for if ſo, he ſhall be oblig'd to make good to the Merchant all Damages that ſhall enſue. But the Maſter may take part of the Wines or other Merchant Goods, and diſpoſe thereof for his preſent Neceſſities; And when the ſaid Veſſel ſhall be arriv'd at her Port of Diſcharge, the ſaid Wines that the Maſter hath ſo diſpos'd of, ought to be valu'd and apprais'd at the ſame Rate as the other Wines ſhall be commonly ſold for, and accordingly be accounted for to the Merchant. And the Maſter ought to have the Fraight of ſuch Wines, as he hath ſo taken and diſpoſed of for the Uſe and Reaſon aforeſaid.

OBSERVATION.

The 35*th* and 39*th* Articles of the *Laws* of *Wisbuy* are to the ſame Purport as this; but by the 68*th* Article of thoſe *Laws*, if the Ship happens afterwards to be caſt away, the Maſter ſhall pay the Merchant for the Wines or other Goods he ſold in a Caſe of Neceſſity, without pretending to deduct any thing for the *Fraight*. The *Hanſeatiques* forbid any Maſter to borrow any Money on any other Security but the Ship's *Bottom*, that if ſhe ſhou'd be loſt the Debt might be paid; nor do they allow him when he is at home, to borrow any thing on her *Bottom*, or otherwiſe, without acquainting the Owners with it. By the 45*th* Article of the *Laws* of *Wisbuy*, the Ship is bound to the Merchant whoſe Goods the Maſter has ſold in this manner, to make him ſatisfaction, tho' ſhe ſhould be her ſelf ſold and have other Owners.

ARTIC. XXIII.

If a Pilot undertakes the Conduct of a Veſſel, to bring her to St. *Malo*, or any other Port, and fail of his Duty therein, ſo as the Veſſel miſcarry by reaſon of his Ignorance in what he undertook, and the Merchants ſuſtain Damage thereby, he ſhall be oblig'd to make full Satisfaction for the ſame, if he hath wherewithal; and if not loſe his Head.

ARTIC. XXIV.

And if the Maſter, or any one of his Mariners, or any one of the Merchants, cut off his Head, they ſhall not be bound to anſwer for it; but before they do it, they muſt be ſure he had not wherewith to make Satisfaction.

OBSERVATION on the two foregoing Articles.

The Original calls theſe Pilots *Locmen*; for when thoſe *Laws* were written, there were Officers aboard all Ships, call'd *Pilots*, who went the whole Voyage, whereas the *Locmen* were like our Pilots, Mariners hir'd at every River to guide the Ship; for, dwelling on the Place, the *Locman* was ſuppos'd to know the Shoar better than the Ship's *Pilot*, who perhaps was never there before; for which Reaſon he commonly requir'd the Maſter to have a *Locman*, to avoid Rocks, Shelves, Shoals and Sands, which he muſt be well acquainted with by long uſing the River. That of *Roan* is very dangerous on this Account, and there are ſworn *Pilots* every two Leagues to guide Ships up the *Seine*. They are very neceſſary all over *Britany*. The 44*th* and 59*th* Articles of the *Ordinances* of *Wisbuy*, oblige the Maſter to take a new Pilot, if his own and the Ship's Crew demand one of him. The Maſter finds him Maintenance, and the Merchant pays him, by the 60*th* Article of the *Ordinances* of *Wisbuy*. The Loſs of the Pilot's Head, if thro' his Ignorance or Negligence the Ship is loſt, is taken from the

the *Conſulate*, Chap. 250. And anſwers to that known Maxim in the Law, *Qui non habet in Ære, luet in Corpore.*

ARTIC. XXV.

If a Ship or other Veſſel arriving at any Place, and making in towards a Port or Harbour, ſet out her Flag, or give any other Sign to have a Pilot come aboard, or a Boat to towe her into the Harbour, the Wind or Tide being contrary, and Contract be made for Piloting the ſaid Veſſel into the ſaid Harbour accordingly; but by reaſon of an unreaſonable and accurſed Cuſtom in ſome Places, that the third or fourth Part of the Ships that are loſt, ſhall accrue to the Lord of the Place where ſuch ſad Caſualties happen; as alſo the like Proportion to the Salvers, and only the Remainder to the Maſter, Merchant and Mariners; the Perſons contracting for the Pilotage of the ſaid Veſſel, to ingratiate themſelves with their Lords; and to gain to themſelves a Part of the Ship and Lading, do like Faithleſs and Treacherous Villains, ſometimes even willingly, and out of Deſign to ruin Ship and Goods, guide and bring her upon the Rocks; and then feigning to aid, help and aſſiſt the now diſtreſſed Mariners, are the firſt in diſmembring and pulling the Ship to Pieces; purloyning and carrying away the Lading thereof contrary to all Reaſon and good Conſcience: And afterwards that they may be the more welcome to their Lord, do with all ſpeed poſt to his Houſe with the ſad Narrative of this unhappy Diſaſter; whereupon the ſaid Lord, with his Retinue appearing at the Places, takes his Share; the Salvers theirs; and what remains the Merchant and Mariners may have. But ſeeing this is contrary to the Law of God, our Edict and Determination is, that notwithſtanding any Law or Cuſtom to the contrary, 'tis ſaid and ordain'd, the ſaid Lord of that Place, Salvers, and all others that take away any of the ſaid Goods, ſhall be Accurſed and Excommunicated,

communicated, and puniſh'd as Robbers and Thieves, as formerly hath been declar'd: But all falſe and treacherous Pilots, ſhall be condemn'd to ſuffer a moſt rigorous and unmerciful Death; and high Gibbets ſhall be erected for them in the ſame Place, or as nigh as conveniently may be, where they ſo guided and brought any Ship or Veſſel to Ruin as aforeſaid, and thereon theſe accurſed Pilots are with Ignominy and much Shame to end their Days: Which ſaid Gibbets are to abide and remain to ſucceeding Ages on that Place, as a viſible Caution to other Ships that ſhall afterwards ſail thereby.

ARTIC. XXVI.

If the Lord of any Place be ſo Barbarous, as not only to permit ſuch Inhumane People, but alſo to maintain and aſſiſt them in ſuch Villanies, that he may have a Share in ſuch Wracks: The ſaid Lord ſhall be apprehended, and all his Goods confiſcate and ſold, in order to make Reſtitution to ſuch as of Right it appertaineth; and himſelf to be faſten'd to a Poſt or Stake in the midſt of his own Manſion-Houſe, which being fir'd at the Four Corners, all ſhall be burnt together, the Walls thereof ſhall be demoliſh'd, the Stones pull'd down, and the Place converted into a Market-Place, for the Sale only of Hogs and Swine to all Poſterity.

OBSERVATION on the two foregoing Articles.

We ſhall find ſomething very Curious in the Remarks made by the *French* Author on theſe Articles. Theſe two *Laws*, ſays he, were made upon account of that Inhumane *Droit de Bris ſur le Naufrages*, The Right of Lords of Coaſts to Shipwracks; by which thoſe miſerable Wretches who were caſt away, their very Perſons and the Goods that were ſav'd, were confiſcated for the Prince who was Lord of the Coaſt. In the Barbarous Times Men us'd to put this Law in Practice, eſpecially the *Gauls*, who took

all Strangers for their Enemies, and not only robbed them of their Goods, but of their Lives, ſacrificing them to their falſe Gods. From which bloody Cuſtom, *Hercules* brought them off according to *Diodorus Siculus*, *lib.* 5. *Hiſt. cap.* 2. *Pomponius Mela*, *lib.* 3. *de Situ Orbis*, *cap.* 2. The *Romans*, tho' they were Covetous to Exceſs, and greedy after other Mens Goods, never approv'd of this Cruelty, but condemn'd and abrogated the Uſe of it to the utmoſt of their Power, *Toto Titulo de Incendio, Ruina & Naufragio. Et de Naufragiis libro undecimo, Codicis Leg.* 1. *& Leg.* 9. But the Empire degenerating in its Decadency, when ſo many barbarous Nations pour'd in upon it out of *Scythia* and *Scandinavia*, and tore it to Pieces; this wicked *Droit de Bris ſur le Naufrages* was renew'd, particularly on the Coaſts of *Gaul*, call'd *Littus Saxonicum*, on account of the frequent Invaſions of the *Saxons* there, *Sidonius Apollinaris*, *lib.* 8. *Epiſt.* 6. *& Carmine ſeptimo.* Afterwards the *Normans* being by chance thrown upon that Coaſt, were immediately diſpatch'd by the Inhabitants; and in Courſe of Time this pretended Right inſinuated it ſelf, and prevail'd not only againſt Enemies and Invaders, but againſt any Perſons that were ſhipwrack'd. *Quicquid evadebat ex Naufragiis totum ſibi Fiſcus lege Patriæ vindicabat, Paſſoſque Naufragium miſerabilius Violentia Principis ſpoliabat quam Procella*, as ſays *Hildebertus Turonenſis Archiepiſc. Epiſt.* 32, *&* 65. At laſt the Counts and Dukes of *Armoreck*, *Bretagne*, and *Gaul* were oblig'd by Civility, and the Requeſt of the neighbouring People of *Bourdeaux* and *Rochelle*, to change this barbarous Cuſtom of Slavery and Confiſcation, into a Tax for all ſuch as procur'd Licences from them; of which Licences there were three ſorts, *Bref de Sauveté*, *Bref de Conduite*, and *Bref de Victualle*: The firſt was to ſave them in caſe of Shipwreck from the old Forfeitures to the Lord, and exempt them from the cruel *Droit de Bris*. The ſecond was to allow them Convoy upon reaſonable Terms. The third was for Liberty to buy Proviſions in *Bretagne*. The Dukes of *Bretagne* eſtabliſh'd an Office and Officers for giving out theſe *Licences*, as at *Rochelle* and other Places. The *Droit de Bris* was alſo practis'd in *Guienne*, *Sainctonge*, *Artois* and *Poictou*, but much more civilly and humanely than 'twas us'd in *Bretagne*; for the Lords of the Coaſts took only a third or a quarter Part, according to their ſeveral Cuſtoms; the *Salvers* as much, and the reſt was reſtor'd to the Poor Wretches that were ſhipwreck'd, and their Perſons were Free. This Barbarity is aboliſh'd in *England*, *Italy*, *Germany*, *Spain* and *France*, unleſs it be practis'd againſt the Enemies of the State, Infidels or Pirates: But the *Spaniards* obſerve this Cuſtom beyond the Line againſt all

but

but natural *Spaniards*. This *Droit de Bris*, which was not however ſo cruelly executed in *Guienne*, as in *Bretagne*, was ſolemnly abrogated by *Henry* III. King of *England* and Duke of *Aquitain* and *Guienne*. His Edict to this Purpoſe is regiſter'd and preſerv'd among the *Rolls* at *Bourdeaux*, and is as follows.

Henricus Dei Gratia Rex Angliæ, Dominus Hiberniæ, Dux Normand. Aquitan. & Comes Andegavenſis,

Archiepiſcopis, Epiſcopis, Abbatibus, Prioribus, Comitibus, Baronibus, Juſtitiæ Præpoſitis, & Magiſtris, & omnibus Ballivis & Fidelibus ſalutem: Sciatis quod nos pro ſalute Animæ noſtræ, & Anteceſſorum & Hæredum noſtrorum, & ad malas conſuetudines abolendas concedimus, & hac noſtra Carta confirmamus pro nobis & Hæredibus noſtris in perpetuum, quod quotieſcunque contigerit de cetero aliquam Navem periclitari in Poteſtate noſtra, ſive in Coſtera Maris Angliæ, ſive in Coſtera Pictaviæ, ſive in Coſtera Inſulæ Oleronis, ſive in Coſtera Vaſconiæ: Et de Navi taliter periclitata aliquis Homo vivus evaſerit, & ad Terram venerit, omnia Bona & Catalla in Navi iſta contenta remaneant, & ſint eorum quorum prius fuerant, & eis non depereant Nomine EIECTI. *Et ſi de Navi taliter periclitata nullo vivo Homine evadente contingat, qualemcunque Beſtiam vivam evadere, vel in Navi illa vivam inveniri; tunc Bona & Catalla illa per manus Ballivorum noſtrorum, vel Hæredum noſtrorum, vel per manus Ballivorum Dominorum in quorum Terra Navis fuerit periclitata libenter quatuor probis Hominibus cuſtodienda deponantur uſque ad terminum trium Menſium: Ut ſi illi quorum Catalla illa fuerunt intra terminum illum venerint, ad exigenda Catalla illa, & probare poſſint Catalla illa ſua eſſe, eis libenter reſtituant. Si vero infra prædictum terminum nullus venerit ad exegenda Catalla ſua, tunc noſtra ſint & Hæredum noſtrorum Nomine* EIECTI, *vel alterius qui Libertatem habet ejectum habendi. Si vero de Navi taliter periclitata nullus Homo vivus evaſerit, nec alia Beſtia ſicut prædictum eſt, tunc Bona & Catalla in Navi illa contenta noſtra ſint & Hæredum noſtrorum Nomine* EIECTI, *vel alterius ubi Navis fuit periclitata qui Libertatem habet ejectum habendi: Quod volumus, & firmiter præcipimus pro Nobis & Hæredibus noſtris. His Teſtibus, venerabili Patre Edvardo Karkol, Epiſcopo, Bertrando Clerico Comiti Lincol. & Conſtabulario, Petro de Mulo-lacu, Henrico de Trubleville, tunc*

Seneſcaldo Vaſconiæ, Hugo de Diſpencie, Godefrido Crantonibus, Amande Santo-Amando, Gulielmo de Crob. Anno 1226. *Regni noſtri vigeſimo.*

As to that Part of theſe Laws, requiring Traiterous Pilots to be Hang'd on the Shoar, in ſome eminent Place, to be a Warning to all Mariners; *Andronicus*, Emperor of *Greece*, who reign'd about the Year 1150. order'd the ſame or the like Puniſhment for ſuch as made ſpoil of Wrecks, as *Nicetas* reports in the 2*d* Book of his Annals. The Lord *Verulam* in his Hiſtory of *Henry* VII. writes, that 'twas heretofore the Cuſtom in *England* to leave the dead Bodies of Pirates on Gibbets near the Water-ſide, for a Warning to *Sea-faring* Men. *Morte affecti circa Oras Maritimas, ut loco Signorum Nauticorum & Laternarum eſſent, & Aſſeclas a Littoribus Angliæ abſterrere poſſent.* The Hanging ſuch as are condemn'd for Crimes committed at Sea by the Water-ſide, and ſome of the moſt Criminal in Chains, has been practis'd ſince in this Kingdom. Thoſe malicious Fiſhermen, who in the Night make Fires in dangerous Places to attract Mariners thither, to the Loſs of their Ships by making them believe they are near Ports and inhabited Places, deſerve the ſame Puniſhment. The Author whom we have made uſe of on this occaſion, tells us, that *Catalla*, a Word in King *Henry*'s Charter, is originally *Gaſcon*, and ſignifies Riches or Merchandize. The *Picards* in their Idiom have it *Cateus*: In *Spaniſh* 'tis *Caudal*; and in *Engliſh*, Chattels, than which no Term is more frequent in the Common Law. The Word in the *French* which is render'd *Caution* in *Engliſh*, is *Beliſe*, properly a Beacon; but in this Place 'tis us'd Metaphorically: For a *Gibbet* wou'd be an odd ſort of Beacon in our *Language*. There are ſeveral ſorts of theſe *Beliſes* or Beacons at Sea, ſet up to direct Mariners to the right Courſe they ought to take to avoid Danger. Theſe are very neceſſary in thoſe Parts where there are *Bars*, that is, *Entrances*, where there muſt be a high Tide to carry Ships over them. Sometimes *Buoys* are made uſe of for *Beliſes*, and ſometimes Trees, Light-Houſes, and other things. The Burning the Criminal's Houſe, mention'd in theſe two Articles, and all that is in it, ſhews what an Opinion the Legiſlator had of the Heinouſneſs of the Crime. Coiners were in *France* burnt in old Times, and their falſe Money with them; their Buildings were levell'd with the Ground, their Woods fell'd and rooted up, and the Places that belong'd to them condemn'd and ſtrew'd with Salt, as was the Town of *Poictiers* in the Reign of King *Dagobert*.

ARTIC.

ARTIC. XXVII.

A Veſſel being arriv'd at her Port of Diſcharge, and halled up there into dry Ground, ſo as the Mariners deeming her to be in good Safety, do take down her Sails, and ſo fit the Veſſel *aloof* and *aft*, the Maſter then ought to conſider an Increaſe of their Wages *Kenning* by *Kenning*; And if in hoiſting up of Wines, it happens that they leave open any of the Pipes or other Veſſels, or that they faſten not the Ropes well at the Ends of the Veſſel, by reaſon whereof it ſlips, and falls, and ſo is loſt, and falling on another both are loſt; In theſe Caſes the Maſter and Mariners ſhall be bound to make them good to the Merchants, and the Merchants muſt pay the Fraight of the ſaid damnified or loſt Wines, becauſe they are to receive for them from the Maſter and Mariners, according to the Value that the reſt of the Wines are ſold; And the Owners of the Ship ought not to ſuffer hereby, becauſe the Damage happen'd by Default of the Maſter and Mariners, in not making faſt the ſaid Veſſels or Pipes of Wine.

OBSERVATION.

Kenning by *Kenning*, *Veuë par Veuë*, is a Phraſe us'd by Mariners, as is alſo *Courſe by Courſe*, in the 19*th* Article of theſe *Laws*. Theſe Phraſes are very antient, and *Kenning* was particularly us'd when *Navigation* was perform'd by *Views*, and by *Obſervations* on the Land from one Proſpect to another, *Plin. lib. 6. cap.* 13. which was before the Invention or Knowledge of the Uſe of the *Compaſs*. It ſignifies what the Logicians or Metaphyſicians call'd *Agreement*; the Arithmeticians and Geometricians *Proportion*, and others expreſs otherwiſe.

ARTIC.

ARTIC. XXVIII.

If two Veſſels go on a Fiſhing-deſign in Partnerſhip, as for *Mackerel*, *Herrings*, or the like, and do ſet their Nets or lay their Lines at *Olonne*, St. *Gilles*, *Survie*, or elſewhere; the one of the Veſſels ought to employ as many Fiſhing-Engines as the other, and ſo ſhall go in equal Shares, as to the Gain, according to the Agreement betwixt them made. And if it happens that one of the ſaid Veſſels, with her Fiſhing-Inſtruments, Engines and Crew, periſh, and the other eſcaping, arrives in Safety; if the ſurviving Friends of thoſe that periſh'd, require of the other to have their Part of the Gain, as alſo of their Fiſh, Fiſhing-Inſtruments, and Boat, they are to have, upon the Oaths of thoſe that eſcape, their Part of the Fiſh, and Fiſhing-Inſtruments; but they ſhall not have any Part or Share in the Veſſel it ſelf.

ARTIC. XXIX.

If any Ship or other Veſſel ſailing to and fro, and coaſting the Seas, as well in the way of Merchandizing, as upon the Fiſhing account, happen by ſome Misfortune through the Violence of the Weather to ſtrike her ſelf againſt the Rocks, whereby ſhe becomes ſo bruiſed and broken, that there ſhe periſhes, upon what Coaſts, Country or Dominion ſoever; and the Maſter, Mariners, Merchant or Merchants, or any one of theſe eſcape and come ſafe to Land; in this Caſe the Lord of that Place or Country, where ſuch Misfortune ſhall happen, ought not to let, hinder, or oppoſe ſuch as have ſo eſcaped, or ſuch to whom the ſaid Ship or Veſſel, and her Lading belong, in uſing their utmoſt Endeavours for the Preſervation of as much thereof as may poſſibly be ſaved. But on the contrary, the Lord of that Place or Country, by his own Intereſt, and by thoſe under his Power

Power and Juriſdiction, ought to be Aiding and Aſſiſting to the ſaid diſtreſſed Merchants or Mariners, in ſaving their Shipwrack'd Goods, and that without the leaſt Imbezlement, or taking any Part thereof from the right Owners: But, however, there may be a Remuneration or Conſideration for Salvage to ſuch as take Pains therein, according to right Reaſon, a good Conſcience, and as Juſtice ſhall appoint; notwithſtanding what Promiſes may in that Caſe have been made to the Salvers by ſuch diſtreſſed Merchants and Mariners, as is declared in the 4th Article of theſe Laws: And in Caſe any ſhall act contrary hereunto, or take any part of the ſaid Goods from the ſaid poor, diſtreſſed, ruin'd, undone *Shipwrack'd* Perſons againſt their Wills, and without their Conſent, they ſhall be declar'd to be Excommunicated by the Church, and ought to receive the Puniſhment of Thieves; except ſpeedy Reſtitution be made by them: Nor is there any Cuſtom or Statute whatſoever, that can protect them againſt the aforeſaid Penalties, as is ſaid in the 26th Article of theſe Laws.

OBSERVATION on the two foregoing Articles.

The Civil Law almoſt every where allows all ſhipwrack'd Perſons, a Right to gather up their ſhipwrack'd Goods. The *Codex* and the *Rhodian* Laws are particular in this Matter. King *Henry* III's Charter, before recited, is very plain upon it; and the Reader is referr'd to it.

ARTIC.

ARTIC. XXX.

If a Ship or other Veſſel entring into Harbour, happens by Misfortune to be broken and periſh, and the Maſter, Mariners and Merchants, which were on board her, be all drowned; and if the Goods thereof be driven aſhore, or remain floating on the Sea, without being ſought after by thoſe to whom they belong, they being ignorant of this ſaid Diſaſter, and knowing nothing thereof; in this moſt lamentable Caſe, the Lord of that Place or Country ought to ſend Perſons to ſave the ſaid Goods, which he ought to ſecure and to put into ſafe Cuſtody; and give the Relations of the Deceas'd Perſons who were drown'd, notice of it, and to ſatisfy for the Salvage thereof, not out of his own Purſe, but of the Goods ſaved, according to the Hazards run, and the Pains taken therein; and what remains muſt be kept in ſafe Cuſtody for one Year or more; And if in that time they to whom the ſaid Goods appertain, do not appear and claim the ſame, and the ſaid Year be fully expir'd, he may publickly ſell and diſpoſe thereof to ſuch as will give moſt, and with the Monies proceeding of the Sale thereof, he ought to give among the Poor, and for Portions to poor Maids, and other Charitable Uſes, according to Reaſon and good Conſcience. But if he aſſumes the ſaid Goods either in whole or in part unto himſelf, he ſhall incur the Curſe and Malediction of our Mother the Holy Church, with the aforeſaid Pains and Penalties, without ever obtaining Remiſſion, unleſs he make Satisfaction.

OBSERVATION.

The keeping ſuch Goods a Year, is in the Civil Law, *l.* 2. *Cod. Naufragiis:* But the Parliament of *Paris* in the Year 1584. pretended to reduce the Time to two Months: Which Time was to commence from the Day of Proclaiming ſuch Goods in Publick Market,

Market, and Fixing a *Placquard* of it on the Doors of the Pariſh Church. The *Conſulate* provides for the *Salvers* more largely, allowing them half of the Goods ſav'd, and the Lord and the Poor the other half, *chap.* 252. By ſome Laws in *France*, as long as the Goods are in being and unalienated, the Merchant to whom they belong, has a Claim to them, paying the Charge of *Salvage*: But if after a lawful Time, they are ſold and become another's Property, he has no Claim to them. The *Caſuiſts* are of Opinion, that if he who finds them is Rich, he ought to give all to Pious Uſes: If Poor, to keep all himſelf, *Hoſtienſis in ſumma de Pœnitentia.* And the 36*th* Article of the *Laws* of *Oleron* agrees with the Judgment of the *Caſuiſts.*

ARTIC. XXXI.

If a Ship or other Veſſel happens to be loſt by ſtriking on ſome Shoar, and the Mariners thinking to ſave their Lives, reach the Shoar, in hope of help, and inſtead thereof it happens, as it often does, that in many Places they meet with People more barbarous, cruel, and inhumane, than mad Dogs, who to gain their Monies, Apparel, and other Goods, do ſometimes murder and deſtroy theſe poor diſtreſſed Seamen; In this Caſe, the Lord of that Country ought to execute Juſtice on ſuch Wretches, to puniſh them as well Corporally as Pecuniarily, to plunge them in the Sea till they be half dead, and then to have them drawn forth out of the Sea, and ſton'd to Death.

OBSERVATION.

To plunge them in the Sea, Plonger en la Mer, is what the *French* now call *bailler la Cale*, and we *Keel-Hawling*. The Word Καλαφοντισμὸς in *Greek* ſignifies as much. The *Goths* heretofore us'd to practiſe it as a Sport or Exerciſe, *Olaus Magnus Hiſtoriæ Septentrionalis, lib.* 5. *& lib.* 10. *cap.* 16. And one may conceive an Idea of the Barbarity of the Northern Nations, when that was a Diverſion to them, which was a Puniſhment to others; as it was of old among the *Celtes* and *Franks*, and is now among the Modern Navigators. Lazy and ſcandalous Perſons had

ſome ſuch ſort of Puniſhment by the Cuſtoms or Laws of the old *Germans*, *Tacitus de Moribus Germanorum*, *num.* 5. *Turnus Herdonius* was puniſh'd thus to Death for abuſing and railing at the King *Tarquinius Superbus*, *T. Livius*, *Lib. primo Decadis prima.* Bawds and Whores are ſerv'd ſo at *Bourdeaux*; and Scolds ſomething like it in *England*, when they are put into the *Ducking Stool.* By an old *Ordinance* of *Philip* II. of *France*, Blaſphemers had the ſame Puniſhment. The Compariſon of a mad Dog is perhaps made uſe of here, on account of the Cure for his Bite, by plunging in the Sea before the Poiſon has taken too deep Root, which is reckon'd the moſt Sovereign Remedy for it, *Auguſtine de Moribus Manicheor. lib.* 2. *cap.* 8. *Apuleius Metamorphoſ. lib.* 9. 'Tis ſaid *Baldus* the great *Civilian*, dy'd miſerably of the Bite of his Favorite Dog, tho' the Bite was very inconſiderable, as to any thing but the Effects of it; ſee the 21*ſt* Book of *Ambroſe Parre's* Treatiſe of Poiſons: And *Diogenes* the Cynick, according to *Laertius*, dy'd the ſame Death. My Author has tempted me unawares to this Digreſſion, which he very ridiculouſly continues about 100 times as long; for in truth it may well be call'd a Digreſſion, at leaſt, all that is not neceſſary to explain the Metaphor in the Text, and much farther we have not gone.

ARTIC. XXXII.

If by reaſon of tempeſtuous Weather, it be thought expedient, for the lightning of any Ship or Veſſel at Sea, or riding at Anchor in any Road, to caſt Part of the Lading over board, and it be done accordingly for the common Safety, tho' the ſaid Goods ſo ejected, and caſt overboard, do become his that can firſt poſſeſs himſelf thereof, and carry them away: Nevertheleſs, it is here to be further underſtood, that this holds true only in ſuch Caſes, as when the Maſter, Merchant, and Mariners have ſo ejected or caſt out the ſaid Goods, as that they give over all hope or deſire of ever recovering them again, and ſo leave them as things utterly loſt and given over by them, without ever making any Enquiry or Purſuit after them: In which Caſe only, the firſt Occupant becomes the Lawful Proprietor thereof.

OBSERVATION.

The Property of things thrown over-board remains in the Merchant, and the *Finder* has no Right to them, unleſs they were thrown out with an Intention to leave them there, and look no more after them, *l.* 2. *in fine, l. qui levandæ D. Lege Rhodia. l. quod ex Naufragio. D. de acquirenda vel amittenda Poſſeſſione. Neptunus faſtidioſus ædilis eſt. Siquæ ſunt improbæ Merces jactat omnes*; as *Plautus* ſays in *Stichor.* The Sea drives all things to Land: *Mari hæc eſt Natura, ut omne immundum, ſtercoroſumq; Littoribus impingat, Seneca Naturalium Quæſt. lib.* 3. *cap.* 26. On this Aſſurance, every one that flings his Goods over-board in time of Danger, hopes and deſires to recover them again after ſeeking for 'em, and thoſe things *non ſunt in derelicto, ſed in deperdito. l. Si quis Merces. D. pro derelicto.* 'Tis true, what is abandon'd thro' Contempt or Careleſsneſs belongs to the firſt Occupiers; *Quod Dominus ea mente abjecit, ut in numerum rerum ſuarum eſſe nolit, qui primus occupaverit ſtatim Dominus ſit Jure Naturali, Inſtit. de Rerum Diviſione* 5. *qua ratione: & lege* 1. *D. pro derelicto.*

ARTIC. XXXIII.

If a Ship, or any other Veſſel, hath caſt over-board ſeveral Goods or Merchandizes which are in Cheſts well lock'd and made faſt; or Books well claſp'd and ſhut cloſe, that they may not be damnified by Salt Water; In ſuch Caſes it is to be preſum'd, that they who did caſt ſuch Goods over-board, do ſtill retain an Intention, Hope, and Deſire of recovering the ſame: For which Reaſon, ſuch as ſhall happen to find ſuch things, are oblig'd to make Reſtitution thereof to him who ſhall make a due Enquiry after them; or put them to Pious Uſes, according to his Conſcience and the Advice of ſome Prudent Neighbour.

OBSERVATION.

Well Claſp'd; this is conformable to the *Gloſs* on the laſt Law. *D. Lege Rhodia.*

ARTIC. XXXIV.

If any Man happens to find any thing in the Sea, or in the Sand on the Shoar, in Floods or in Rivers, if it be Precious Stones, Fiſhes, or any Treaſure of the Sea, which never belong'd to any Man in point of Property, it belongs to the firſt Finder.

ARTIC. XXXV.

If any ſearches the Sea-Coaſts to fiſh, or find Gold or Silver, and he finds it, he ought to reſtore it all without any Diminution.

ARTIC. XXXVI.

If any going along the Sea-ſhoar to fiſh, or otherwiſe, happens to find Gold or Silver, he ſhall be bound to make Reſtitution thereof, deducting for his own Pains; or if he be Poor he may keep it to himſelf; that is, if he knows not to whom to reſtore it; yet he ſhall give notice of the Place where he found it, to the Neighbourhood and Parts next adjacent, and adviſe with his Superiors, who ought to weigh and take into Conſideration the Indigence and Poverty of the Finder, and then to give him ſuch Advice as is conſonant to good Conſcience.

OBSERVATION on the three precedent Articles.

There are three ſorts of Goods which the Sea naturally drives to Land: As entire Wrecks; for which the cruel *Droit de Bris* was in *old* Times eſtabliſh'd by pernicious and barbarous Cuſtom: But Humanity, Licenſes and Paſsports have aboliſh'd it in *Ours*. The ſecond is what is flung overboard for the Preſervation of Men's Lives, the Ship and Cargo. Neither of theſe, by Law, nor the Cuſtom of the *Sea*, change their Proprietors, but may be claim'd

claim'd and recover'd by them, within the lawful Time appointed by *Ordinances* and *Cuſtoms* to claim them, even while the Goods are in being and unſold, as appears by what has been ſaid in and upon the 30*th* Article. The third Sort comprehends the two firſt, which are not own'd and demanded by the Proprietor, and beſides that, includes all the *Treaſures of the Sea* which come out of its Bowels, and it naturally drives aſhoar; as Aromatick Amber on the Coaſt of *Guienne*, Amber Succinum in the *German* Ocean, Red, Black, and White Coral on the Coaſt of *Barbary*, Precious Stones, Fiſh Shells, and other Riches which the Sea produces, and which in the 34*th* Article of theſe Laws are call'd *Herpes Marines*, in *Engliſh*, *Treaſures of the Sea*; for it cannot be otherwiſe ſo fully expreſt. The Word *Herpes* was taken from an old *Gauliſh* Term *Harpir*, which ſignifies to *take*, and its contrary *Voerpir*, is to *leave*: Perhaps, ſays my Author, taken from the *Greek* Word ἁρπάζω, *aurum mihi intus harpagatum eſt*, Plautus *in Aululari*a; that is, the Property of ſuch Things is in the *Finder*, or the Perſon who firſt takes them from off the Ground. *Vocari autem* ELECTRUM *harpaga, eo quod attritu digitorum accepta anima folia paleaſque veſtium fimbrias rapiat*, Iſidorus orig. lib. 16. cap. 8. Nor is he who firſt lays his Hand on them, oblig'd to give thoſe that are there with him a Share of what he has found, unleſs he pleaſes to do it out of Courteſy, *l. ſi is qui ultimo. D. acquirendo rerum Dominio. Robuſtus de Privilegiis Scholaſticorum, num.* 61. notwithſtanding the Conſtitution of the Emperor *Leo*, which is contrary to it. This is the *Law* of *Nature*, but Princes and Lords of the Coaſt have uſurp'd this Privilege, and laid Claim to all the Treaſures of the Sea, that it throws on their Royalties. The Lords of the Coaſts, that is, of the Mannors or Lands on the Coaſts of *France*, were Notorious Uſurpers in this, till the Reign of *Lewis* XIII. when Cardinal *Richlieu*, by an Order of the Council bearing Date the 13*th* of *Decemb.* 1629. took away the pretended Rights of ſeveral Lords, or very much abridg'd them; but he did not reſtore the *Law* of *Nature* in this Caſe; he only enlarg'd his own and his Succeſſor's Privileges and Authority, he being Great Maſter, and Superintendant General of the *Navigation* and *Commerce* of *France*. This Order of Council caus'd great Diſorders, and the Count *de Olonne* was particularly ſo enrag'd at it, that his Officers by main Force drove away thoſe of the Admiralty, who came upon his *Royalty*. But the *French* Kings were now Maſters of their Subjects Lives and Fortunes, and 'twould have been in vain for many ſuch Counts to have diſputed the King's Edict with theſe Words

Words in it, *Car tel eſt notre Plaiſir*; the ſtanding Reaſon of the *French* Laws at this Time.

ARTIC. XXXVII.

Touching great Fiſhes that are taken or found dead on the Sea-ſhore, regard muſt be had to the Cuſtom of that Country, where ſuch great Fiſhes are taken or found. For by the Cuſtom, the Lord of that Country ought to have his Share, and with good Reaſon, ſince the Subject owes Obedience and Tribute to his Sovereign.

OBSERVATION.

This Law declares, that by the antient Cuſtoms of Countries, as well Sovereigns, as all particulars Lords of Royalties to whom Duties and Tribute were due, had both heretofore certain Rights to the *Eſpaves de Mer*, Strays of the Sea. The *Couſtoumier de Normandie* under the Article of *Varech*, ſpecifies what belongs to the One, and what belongs to the Other, and particularly that *Whales* and other Oyl-Fiſh, belong to the particular Lord of the Royalty where they were found, that is, off whoſe Land they were taken: *On the Shoar*; in the Original 'tis *a la Rive de la Mer*; and how far that is to be underſtood to belong to the Lord of that Royalty, may be found in the above-mention'd *Couſtoumier*: Where the *Varech* underſtands as far as a Man on Horſeback can reach with his Launce: For if the Fiſh is found farther off the Shoar, the Lord has no Right to it, tho' it be brought or driven aſhoar afterwards.

ARTIC. XXXVIII.

The Lord ought to have his ſhare of Oyl-Fiſh, and of no other, according to the laudable Cuſtom of the Country where they are found; and he that finds them is no farther oblig'd than to ſave them, by bringing them without the Reach of the Sea, and preſently to make it known to the ſaid Lord of the Place, that he may come and demand what is his Right.

OBSERVATION.

The *Couſtoumier de Normandie* mentions two ſorts of Fiſh; the *Royal Fiſh*, which are the *Dolphin*, the *Sturgeon*, the *Salmon*, the *Turbet*, the Sea-*Dragon*, the Sea-*Barbel*, and in general all Fiſh fit for a King's Table: And *Oyl* Fiſh, as *Whales*, *Porpuſſes*, *Sea-Calves*, and the like, of which *Oyl* may be made: All other Fiſh are the Property of thoſe that take them in the Sea, near the Shoar or afar off. The Duke of *Eſpernon*, which is the Capital of a little Territory call'd *de Buch*, had a Right to the 8*th* Penny of all the Fiſh ſold in the Market at *Bourdeaux*, that were taken within his Precinct of *de Buch*, the Fiſhermen having been heretofore Vaſſals to the Lords *de Buch*. And further, whatever Part of the Province of *Guienne* the Duke was in, thoſe Fiſhermen were on all Faſt Days bound to ſupply his Table with Fiſh for himſelf and his Family: But then the Duke muſt pay a reaſonable Price for them, and allow them ſomething for their Trouble: This Right is call'd *Bian*, and is ſtill, or was 30 Years ago, in being.

ARTIC. XXXIX.

If the Lord of the Place pleaſes, and if it be the Cuſtom of the Country where the Fiſh is found, he may cauſe the ſame to be brought by him that found it, to the publick and open Market-Place, but no where elſe; and there the ſaid Fiſh ſhall be apprais'd by the ſaid Lord, or his Deputy, according to Cuſtom. And the Price being ſet, the other Party that made not the Price, ſhall have his choice, either to take or leave it at that Price; And if either of them, whether *per fas* or *nefas* be an Occaſion of Loſs or Damage to the other, tho' but to the Value of a *Denier*, he ſhall be oblig'd to make him Reſtitution.

ARTIC.

ARTIC. XL.

If the Coſts and Charges of carrying the ſaid Fiſh to the ſaid Market-place would amount to a greater Sum than the Fiſh it ſelf may be worth, then the ſaid Lord ſhall be bound to take his Share at the Place where ſuch Fiſh was found.

ARTIC. XLI.

The ſaid Lord ought likewiſe to pay his Part of the aforeſaid Coſts and Charges, becauſe he ought not by another's Damage to enrich himſelf.

ARTIC. XLII.

If by ſome Chance or Misfortune the ſaid Fiſh happens to be ſtoln away, or otherwiſe loſt from the Place where it was found, after or before the ſaid Lord has viſited it; in this Caſe he that firſt found it ſhall not any ways be oblig'd to make it good, *Caſus Fortuiti in quibus eſt agreſſura latronum a nemine præſtantur l. quæ fortuitis. C. pignoratitia actione.*

ARTIC.

ARTIC. XLIII.

In all other things found by the Sea-ſide, which have formerly been in the Poſſeſſion of ſome or other, as Wines, Oyl, and other Merchandize, altho' they have been caſt over-board, and left by the Merchants, and ſo ought to appertain to him that firſt finds the ſame; yet herein alſo the Cuſtom of the Country is to be obſerv'd as well as in the Caſe of Fiſh. But if there be a Preſumption that theſe were the Goods of ſome Ship that periſh'd, then neither the ſaid Lord, nor Finder thereof, ſhall take any, to convert any Part of it to their own uſe; but as has been ſaid, diſtribute the Money it produces amongſt the Poor and Needy.

ARTIC. XLIV.

If any Ship or other Veſſel at Sea, happens to find an Oyl Fiſh, it ſhall be wholly theirs that found it, in caſe no due Purſuit be made after it; And no Lord of any Place ought to demand any part thereof, tho' they bring it to his Ground.

OBSERVATION on the preceding Articles.

The *French* Author pretends, that by the 44*th* Article of theſe *Laws*, which he ſays anſwers to the 37*th*; the Kings of *England*, who were alſo Dukes of *Guienne*, acknowledg'd that the *Sea* is no Man's particular Property, but that, as well as the *Air*, 'tis common to all, *Inſtit. de rerum diviſione*, §. 1. *l. Injuriarum*, §. *ſi quis me prohibeat. D. Injuriis*; which, ſays he, contradicts what the Learned *Selden* writes in his Treatiſe *de Dominio Maris*, compos'd by him for the Kings of *England*, whom he ſuppos'd to be *Kings* of the *Sea*, excluſive of all other *Kings* and *Sovereigns*: And unleſs the Oppoſers of *Selden* can find out ſome better Arguments than hitherto they have alledg'd, the Kings of *England* will always believe the *Dominion* of the *Sea* is annex'd to their Crown. Under this Article the Author makes a long Digreſſion on the *Whale* Fiſh-

ery on the Coasts of *Guienne*, which might in former Times be very famous, but now is very inconsiderable. After a Description of *Whales* not at all pertinent in our *Sea Laws*, he tells us, when those Animals us'd to come on these Coasts; and because there is something Historical in the Relation, we shall give the Reader a short Abstract of it. The *Whales* us'd to pass by the Coasts of *Guienne* near the Ruins of the old Castle of *Ferragers*, about a League from *Bayonne*, from the Autumnal Equinox till the Winter was almost over. The Fishermen had then some of their Band always out upon the Watch Night and Day, in Hutts built on purpose by the Sea-side, having their Boats and Fishing Tackle ready. When these Centinels discover'd a Whale, which they knew by the Noise he makes in Breathing, and the Exhalation that rises from it like Smoak; they gave notice by a Token they had for that purpose to their Fellows, who immediately ran to them, and leaping into their Boats put off to Sea, Rowing up to the Animal, to whom they approach'd very near, and attack'd him in the Head, that the Wounds they gave him might be the more mortal: Besides they were afraid of being struck by it, which was commonly mortal to them. When they had kill'd him, they tow'd him ashoar and extracted the *Oyl*. The Fishermen were for the most part *Biscainers*, who were very bold and dexterous in this dangerous Fishery: But what my Author says on this Subject will surprize the Reader. The great Gains the Inhabitants of Cape *Bezton* near *Bayonne*, and the *Biscainers* of *Guienne*, found in the Whale Fishery, and the Ease with which they did it, tempted them to run any Hazards to come at *Whales*. They ventur'd into the Ocean, and set out Ships to seek after the common Abode of these Monsters. Insomuch, that following their *Route*, they discover'd the great and little Banks of *Cod-fish*, the Island of *Newfoundland*, and *Canada* or *New France*, where the Sea abounds in Whales, 100 Years before *Christopher Columbus*'s Navigation; and if the *Spaniards* have been so unjust, as to rob the *French* of the Glory of having first discover'd the Great *Atlantick* Isle call'd the *West-Indies*, they should confess with *Cornelius Vuytfler* and *Anthony Magin*, *Flemish* Cosmographers, *F. Antonio St. Roman*, *Monge de St. Benico*, *del Historia general de la India*, *lib.* 1. *cap.* 2. *pag.* 8. that the Pilot who carry'd the first News to *Christopher Columbus*, and gave him any Knowledge of the New World, was one of the *French Newfoundland Biscainers*. But all this is so contrary to every other History, that there is no Credit to be given to it. Indeed 'twould have been very extraordinary if there should have been any Honour pretended to by any Nation, and the *French* had

had not put in a Claim to it. In the Year 1627. ſome *Biſcainers*, aſſiſted by the Merchants of *Bourdeaux*, fitted out a Ship for the *Whale* Fiſhery towards the frozen Sea of *Greenland*, to the North of *Ireland* and *Scotland*, and at *Spitsberg*: Where they at laſt found the common Station of the *Whales*, during a ſix Months Stay which they made there. But now we come to what he is pleaſed to ſay of the *Engliſh*.

The *Engliſh*, who had not the Addreſs or Induſtry for this Fiſhery, being advis'd of it, grew jealous: They haſten'd thither, and did all they could to moleſt them in their Work, and hinder their Landing; which they did every Year. At laſt they poſitively forbad them to land in *Greenland*, to melt their *Whales Fat* into *Oyl*. The *Biſcainers* complain'd to *Lewis* XIII. and Cardinal *Richlieu*; but there were ſo many things of more Importance then negotiating, between the Crowns of *France* and *England*, that they could not obtain any Article in their Favour, nor Truce for their Fiſhery. Afterwards they fiſh'd in the open Sea, caught *Whales* where they cou'd, and with much Trouble brought the Fat home, where they melted it into *Oyl*. The Company of North *Holland* tempted ſome of theſe *Biſcainers* to ſhew their Fiſhermen the Art of Whale-fiſhing, and after they were become expert in it, they alſo forbad them to fiſh on the Coaſts of *Greenland*, and then this Fiſhery was loſt to them. There is an Air of Fiction in this Hiſtory: By what Authority cou'd the *Engliſh* forbid the *Biſcainers* to land in *Greenland*; does that Country belong to the Crown of *England*? But 'tis not a little the *French* will go out of their way, to carry on any Point they drive at.

ARTIC. XLV.

If a Veſſel by Streſs of Weather be conſtrain'd to cut her Cables or Ropes by the end, and ſo to quit and leave behind her both Cables and Anchors, and put to Sea at the Mercy of the Wind and Weather; In this Caſe the ſaid Cables and Anchors ought not to be loſt to the ſaid Veſſel, if there were any Buoy at them; and ſuch as fiſh for them, ſhall be bound to reſtore them, if they know to whom they belong: But they ought to be paid for their Pains, according to Juſtice. And if they know not to whom to reſtore them, the Lords of the Place ſhall have their Shares, as well as the Salvers: But for pre-

venting further Inconveniences, every Maſter of a Ship ſhall cauſe to be engraven, or ſet upon the Buoys thereof, his own Name, or the Name of his Ship, or of the Port or Haven to which ſhe belongs; and ſuch as detain them from him ſhall be reputed Thieves and Robbers.

ARTIC. XLVI.

If any Ship, or other Veſſel, by any Caſualty or Misfortune happens to be wreck'd and periſh, in that Caſe the Pieces of the Bulk of the Veſſel, as well as the Lading thereof, ought to be reſerv'd and kept in Safety for them to whom it belong'd before ſuch Diſaſter happen'd, notwithſtanding any Cuſtom to the contrary. And all Takers, Partakers, or Conſenters of, or to the ſaid Wreck, if they be Biſhops, Prelates or Clerks, they ſhall be depos'd and depriv'd of their Benefices reſpectively; and if they be Lay-men, they ſhall incur the Penalties aforeſaid. *De his autem quos diripuiſſe probatum ſit, Præſides ut de Latronibus gravem Sententiam dicere convenit. l. ne quid. l. quo Naufrag. D. Incendio, Ruina, & Naufragio. l. Navigia. C. Furtis.* The Penalties aforeſaid are in the *25th*, *26th* and *29th* Articles.

ARTIC. XLVII.

This is to be underſtood only when the ſaid Ship or Veſſel ſo wreck'd, did not exerciſe the Trade of Pillaging, and when the Mariners thereof were not Pirates, Sea-Rovers or Enemies to our Holy *Catholick* Faith: But if they are found to be either the one or the other, every Man may then deal with ſuch as with Rogues, and deſpoil them of their Goods without any Puniſhment for ſo doing.

OBSERVATION on the three foregoing Articles.

Every one has a *Droit de Bris* againſt Pirates. *Piratæ communes Generis Humani Hoſtes ſunt, quos idcirco omnibus Rationibus perſequi incumbit*, ſays the Lord *Verulam*, *de Bello ſacro*, p. 346. For which Reaſon, according to the *Civilians*, *Sunt ipſo Jure diſſidiati, cum quibus publice bellum habemus. Strachia in tertia parte de nautis*; and again, 'tis Cruelty to have any Mercy towards Pirates, *Solum Pietatis genus eſt in hac re eſſe crudelem.* There is no Right of Action amongſt them, and they have none to bring againſt one who attacks them or robs them. *Quia in omnium furum Perſona conſtitutum eſt, ne ejus rei nomine furti agere poſſint, cujus ipſi fures ſunt, lege cum qui § quarto, lege qui re ſibi § primo. lege qui res. § ſi ego. De Furtis*, &c. They have no Action among themſelves. *Communi dividundo lege. communi § inter Prædiones. D. communi dividundo.* On the contrary, for one Pirate to take from another is very lawful, and will bear no Action. *Lege ſed ipſi Nautæ*, &c.

The Teſte of theſe Laws in this Copy, is,

Witneſs the Seal of the Iſle of Oleron, *eſtabliſh'd for all Contracts in the ſaid Iſle, the* Tueſday *after the Feaſt of St.* Andrew, *in the Year One Thouſand Two Hundred Sixty Six.*

This Date of 1266. is too modern, and does not agree with the Time when this Piece was put forth, as the Learned and Curious *Selden*, *libro ſecundo*, *capite* 24. *De Dominio Maris*, very well obſerves: So that 'tis thought that this Date of the Time of the Delivery of the Copy, from whence the Edition printed at *Rouen* was taken, and the Teſte, the Seal eſtabliſh'd for Contracts in the Iſle of *Oleron*, denotes, that 'twas a Copy taken out by a Notary from the Original.

Of

Of the Laws of Wisbuy.

BEfore we ſet down the Laws of *Wisbuy*, we ſhall give ſome account of *Gothland*, and that City the *Capital* of it, once famous for Trade above all the Cities in the North. The Iſle of *Gothland* is ſituated by the *Gothick* Sea in the Dioceſs of *Licopen.* It formerly belong'd to the King of *Sweden*, but was afterwards annex'd to the Crown of *Denmark*.. According to *Johannes Magnus*, a *Gothick* Hiſtorian, *Book* 23. *chap.* 11. it was ſo call'd for the Goodneſs of the Country; for *Goth* ſignifies Good: And *Olaus Magnus*, Book 11. ſays, it deſerves that Name for many Reaſons. There are ſeveral very fine Ports in it, whoſe Entrances are ſafe and eaſy: It is rich in Cattel, of which it feeds prodigious Numbers; abounds in Veniſon, Fiſh, Forreſts, Woods, Pitch, Tar and fine Marble. In the North Eaſt part of the Iſland, was a very fair and noble Sea-Port Town call'd *Wisbuy*, built by Foreigners who came to live in the Country: Upon which account the Citizens of *Wisbuy* had frequent Quarrels with the *Gothlanders*, or Inhabitants of the Country, of whom they made a terrible Slaughter in the Year 1288. After which the Citizens, to defend themſelves againſt their Enemies, obtain'd a Permiſſion from *Magnus* King of *Sweden*, to wall their City, and erect Baſtions and other Fortifications. They flouriſh'd more and more, and grew great by their *Trade* and *Navigation*, to which they entirely gave themſelves up; Inſomuch, that this Town was a long while the *Axis* and moſt Celebrated *Market* of *Europe*; there being no City ſo full of Merchants, and ſo famous for its Commerce. Hither came *Swedes*, *Ruſſians*, *Danes*, *Pruſſians*, *Livonians*, *Germans*, *Finlanders*, *Vandals*, *Flemings*, *Saxons*, *Engliſh*, *Scots* and *French* to Trade. Each Nation had their Quarter, and particularly Streets fo their Shops or Warehouſes. All Strangers were ſafe and welcome there, and enjoy'd the ſame Privileges as the Townſmen themſelves. The Magiſtrates of this City had the Juriſdiction, or rather the Arbitrement of all Cauſes or Suits relating to *Sea*-Affairs. Their *Ordinances* were ſubmitted to in all ſuch Caſes, and paſt for juſt on all the Coaſts of *Europe*, from *Muſcovy* to the *Mediterranean*. Thus much we have taken from *Olaus Magnus*, *lib.* 10. *cap.* 16. and Baron *Herbeſtain in rerum Muſcovitarum*

Com-

Commentario, p. 118. In the Courſe of Time, this Town was entirely deſtroy'd, except the Citadel, which ſtands to this Day. The *Gothick* Hiſtorians do not tell us when, nor how its Deſtruction came upon it, only that 'twas thro' civil Diſſentions which aroſe from Trifles, but occaſion'd great Factions; which ſet them ſo againſt one another, that it ended in the entire Ruin of them all, City and Citizens. The Ruins of it are now to be ſeen, and under them are often found Tables of Marble, Porphyry and Jaſper; Witneſſes of the ancient Splendor and Magnificence of the Citizens. The Houſes were cover'd with Copper; the Windows gilt with Gold, and all that is ſaid or that is diſcover'd of it, ſhews the ineſtimable Riches of the Inhabitants in Times paſt. The *Citizens* who ſurviv'd the Ruin of the City, retir'd to the Country of the *Vandals* and Eaſtern *Saxons*, who were enrich'd with the Wealth of theſe *Refugees*. *Albert* King of *Sweden* rebuilt it, and granted great Privileges to all that ſhould come and inhabit it: But it never could recover its Trade and former Magnificence.

'Twas in this City of *Wisbuy* that the *Sea* Laws and *Ordinances*, which the *Swedes* brought into Credit, were compos'd; they were receiv'd as righteous and juſt, and are kept in the *Teutonick* Language till now. The *Germans*, *Swedes*, *Danes*, *Flemings*, and all the People of the North obſerve them: But none have been ſo curious as to preſerve the Date and the Remembrance of the Time when they were compos'd and publiſh'd.

The Laws of Wisbuy.

ARTIC. I.

WHatever Mariner, whether *Pilot*, *Mate*, or *Sailor*, binds or hires himſelf to a Maſter, if he afterwards leaves him, he ſhall refund what Wages he has receiv'd; and beſides that, pay half as much as the Maſter had promis'd him for the whole Voyage. And if a Mariner has hir'd himſelf to two ſeveral Maſters, the firſt that hir'd him may claim him, and force him to ſerve him. Nevertheleſs he ſhall not be oblig'd to pay him any Wages at all for the whole Voyage, unleſs he does it of his own Good-will.

ARTIC.

ARTIC. II.

Every Pilot, Mate or Mariner that does not underſtand his Buſineſs, ſhall be oblig'd to repay to the Maſter whatever Wages he had advanc'd him, and be beſides bound to pay half as much more as he had promis'd him.

ARTIC. III.

A *Maſter* may turn off a *Mariner*, without any lawful Cauſe given, before he ſets Sail, paying him half what he had promis'd him for the Voyage. After he has ſet Sail, and is gone out of his Port, that Maſter who turns off a Mariner without lawful Cauſe given, is oblig'd to pay him all his Wages, as much as if he had perform'd the Voyage.

ARTIC. IV.

No Mariner ſhall lie or ſtay a Night a Shoar without the Maſter's Leave, on Pain of Forfeiting two *Deniers*, nor ſhall he unmoar the Ship's Boat in the Night, under the ſame Penalty. *By* Deniers *here are underſtood, thoſe of which* 24 *make an Ounce of Silver. The double* Deniers *are now call'd* Carolus's *or* Grand Blancs, *by the* French *and other Nations.*

ARTIC. V.

The Mariners ſhall have three *Deniers* a *Laſt* for Loading, and three for Unloading, which is to be reckon'd only as their Wages for *Guindage* or *Hoiſting*. Theſe Duties are never fix'd on account of the Dearneſs of Proviſions, and the Value of Money, which changes and encreaſes daily. The Rate of * *Guindage* or *Reguindage*, is commonly in *France* five *Sols* a *Laſt*. Which is two Sols ſix Deniers tournois a Tun.

* *Hoiſting up and down, or Loading and Unloading.*

ARTIC. VI.

'Tis not lawful to arreſt or impriſon the Maſter, Pilot or Mariners of a Ship in an Action of Debt, when they are ready to ſail; but the Creditor may ſeize and ſell any thing he finds in the Ship that belongs to his Debtor, *l.* 1. *de Naviculariis lib.* IV. *cod.*

ARTIC.

ARTIC. VII.

A Ship being fraighted for all the Summer, the Seaſon ſhall end on the Feaſt of St. *Martin*, or the 11*th* of *November*.

ARTIC. VIII.

Whoever ſhall make uſe of another Man's *Lighter*, without his Leave, ſhall pay the Owner four *Sols* a Day, unleſs it was in a Caſe of Neceſſity, as of Fire or the like.

ARTIC. IX.

If any one has occaſion to have a Debt witneſſed, he need not carry Strangers aboard; but may make uſe of the People in the Ship. The ſame he may do in all Acts where Witneſſes are neceſſary, *lib.* 10. *cod.*

ARTIC. X.

'Tis not lawful to ſell or mortgage a Veſſel let out to Fraight; but it is lawful to fraight it or underlet it to others for the ſame Time, and the ſame Voyage.

The Words of this Article are, *de le frotter ou ſous louer a d'autres pour le meſme Temps, & pour meſme Voyage:* Which we think we have render'd right, notwithſtanding the Difficulty there ſeems to be in the Senſe, or the Equity of this Law.

ARTIC. XI.

If a Ship that was fraighted for a Voyage is ſent upon another longer than that, or upon ſeveral Voyages; if there's no Proteſtation or Diſſent enter'd againſt it, the Fraighter ſhall pay but half the Damages that may happen to the Ship in ſuch longer Voyage or Voyages.

ARTIC. XII.

If a Maſt, Sail or any other Tackling is unfortunately loſt when the Ship is under Sail, or otherwiſe, the Loſs ſhall not be brought into an *Avaridge*. But if the Maſter is oblig'd to cut his Maſt by

the Board, or ſpoil any of his Tackling for the Preſervation of the Ship, the *Bottom* and the *Cargo* ſhall make good the Damage by an *Avaridge*.

ARTIC. XIII.

The Maſter ſhall not ſell the Ship, nor any Part of her *Tackling*, without the Conſent of the Owners; but if he wants Victuals he may pawn his Cables and Cordage; always obſerving to have the Advice of the Mariners.

ARTIC. XIV.

The Maſter being in Port, ought not to depart and ſet Sail without the Advice and Conſent of the major Part of the Mariners; if he does, and there happens any Loſs, he is bound to make Satisfaction.

ARTIC. XV.

The Mariners are oblig'd to the utmoſt of their Power, to ſave and preſerve the Merchandize, and for doing it, ought to be paid their Wages, but not otherwiſe. 'Tis not lawful for the Maſter to ſell the Ship's *Cordage*, without the Conſent of the Owners or *Factors*; but he is bound to preſerve all, as much as in him lies, on Pain of making Satisfaction.

ARTIC. XVI.

The Mariners are oblig'd to ſave as much as they can, and the Merchants may take away their Goods, paying the Fraight, or ſatisfying the Maſter: Otherwiſe the ſaid Maſter may fit out his Ship if he can do it in a little time, in order to accompliſh his Voyage: If he cannot do it he may relade the Merchandize upon other Veſſels, bound for the Port to which he was to carry them; paying Fraight for them.

There is ſome Difficulty in this Article alſo, and perhaps the Error is in the *French* Verſion; for we profeſs not to underſtand the *Teutonick*, which is the Original, and were forc'd to make uſe of the Tranſlation printed by Authority at *Roan*.

ARTIC. XVII.

The Mariners ſhall not go out of the Ship without leave of the Maſter, on Pain of paying the Damage that may happen in their Abſence, unleſs 'tis when the Ship lies aſhoar moar'd with four Cables. In ſuch Caſe they may go out of her for a little time, taking Care not to tranſgreſs in it.

ARTIC. XVIII.

A Mariner being aſhoar in the Maſter's or the Ship's Service, if he ſhou'd happen to be wounded, he ſhall be maintain'd and cur'd at the Charge of the Ship: But if he goes aſhoar on his own Head to be merry, and divert himſelf, or otherwiſe, and happens to be wounded, the Maſter may turn him off; and the Mariner ſhall be oblig'd to refund what he has receiv'd, and beſides to pay what the Maſter ſhall be forc'd to pay over and above to another whom he ſhall hire in his Place.

ARTIC. XIX.

If a Seaman falls ill of any Diſeaſe, and 'tis convenient to put him aſhoar, he ſhall be fed as he was aboard, and have ſome Body to look after him there; and when he is recover'd, be paid his Wages; and if he dies, his Wages ſhall be paid to his Widow or Heirs.

ARTIC. XX.

If by Streſs of Weather 'tis thought neceſſary to throw any Goods overboard to lighten the Ship; and the Supercargoes or Merchants aboard will not conſent to it, the Merchandize ſhall nevertheleſs be thrown overboard, if the reſt of the People aboard think it ſafeſt to do ſo. In ſuch Caſe as ſoon as the Ship puts into Port, a third Part of the Mariners muſt go aſhoar, and purge themſelves by Oath, that they were forc'd to do it for the Preſervation of their own Lives, the Ship, and the reſt of the Cargo. The Merchandize ſo thrown overboard, ſhall be brought into a groſs *Avaridge*, and be rated at the ſame Price the other Merchandize of the ſame ſort, that was ſav'd, was ſold for.

ARTIC. XXI.

Before the Maſter throws any Goods over-board, he is bound, in the Abſence of the Merchant, to ask the Pilot and Mariners Advice, and the Loſs ſhall be made good by Contribution; the Ship and Cargo being accountable towards it.

ARTIC. XXII.

The Maſter and Mariners are oblig'd to ſhew the Merchant the Cordage that is us'd for hoiſting his Goods in and out of the Ship; if he does not do it, and there happens any Accident, they ſhall ſtand to the Loſs; but if the Merchant has ſeen and approv'd of it, the Damage he ſuſtains ſhall be born by himſelf.

ARTIC. XXIII.

If a Ship is ill trimm'd, and it happens that the Wine ſhe has aboard is loſt through the Maſter's Ignorance or Negligence in governing her, the ſaid Maſter is bound to pay for it: But if the Mariners clear him upon Oath, the Leakage or Loſs ſhall be born by the Merchant.

ARTIC. XXIV.

No Man ſhall fight, or give another the Lie aboard. He who offends in this kind ſhall pay four Deniers: and if the Mariner gives the Maſter the Lie, he ſhall pay eight Deniers: But he who ſtrikes him ſhall pay 100 Sols, or loſe his Hand. If the Maſter gives the Lie, he ſhall pay eight Deniers; if he ſtrikes he ought to receive Blow for Blow.

Per Dignitatem Injuriam perferentis, creſcit Culpa facientis. Salvianus Lib. ſexto de Gubernatione Dei.

Loſe his Hand: This was a common Puniſhment among the Scythians *and the People of the North. Lucianus de Toxari. And alſo among thoſe in the Eaſt. Harmonopulus de pœnis.*

ARTIC. XXV.

The Maſter may turn off a Mariner for a lawful Cauſe; but if the ſaid Mariner compenſates for his Fault, and the Maſter nevertheleſs refuſes to admit him again; the Mariner may follow the Ship

Ship to her Deſtin'd Port, and he ſhall be paid his Wages, as much as if he had made the Voyage in the ſame Ship. If the Maſter hires a leſs able Seaman in his Place, and there happens any Damage by it, the Maſter is to make good the Loſs.

ARTIC. XXVI.

If a Ship riding at Anchor in a Harbour, is ſtruck by another Ship which runs againſt her, driven by the Wind or Current, and the Ship ſo ſtruck receives Damage, either in her Hulk or Cargo; the two Ships ſhall jointly ſtand to the Loſs: But if the Ship that ſtruck againſt the other might have avoided it, if it was done by the Maſter on purpoſe, or by his Fault, he alone ſhall make Satisfaction. The Reaſon is, That ſome Maſters who have old crazy Ships, may willingly lie in other Ships Way, that they may be damnify'd or ſunk, and ſo have more than they were worth for them. On which account this Law provides, that the Damage ſhall be divided, and paid equally by the two Ships, to oblige both to take Care, and keep clear of ſuch Accidents as much as they can.

ARTIC. XXVII.

A Ship being at Anchor in a Harbour where there is ſo little Water that ſhe touches; another Ship comes and anchors near her; if the Ship's Company of the former Veſſel require thoſe of the latter to take up their Anchor, becauſe it is too near them, and they do not do it, the former may take it up themſelves; and if the latter hinders them, they ſhall make Satisfaction for all the Damage that may happen by that Anchor.

ARTIC. XXVIII.

No Maſter of a Ship ſhall lie at Anchor in a Haven without faſtning a *Buoy* to his Anchor, to give notice to others where it is. If he omits to do ſo, and any Damage is ſuſtain'd by it, he is oblig'd to make it good.

ARTIC. XXIX.

In all Voyages where Wine is the Trade, the Maſter is oblig'd to find the Seamen with it, and then he may give them but one Meal

Meal a Day: But where 'tis not to be had, and the Mariners drink Water, he ſhall give them two Meals a Day.

ARTIC. XXX.

When a Ship is let out to Fraight, the Maſter ought to aſſign and ſhew the Seamen where they are to have the *Stowage* that belongs to them; and they muſt declare whether they will load it themſelves, or will let the Maſter fraight it with the reſt of the Ship, and be paid for their Proportion.

ARTIC. XXXI.

A Ship being arriv'd at her deſtin'd Port, thoſe Seamen who wou'd be paid their Wages there, if they have no Cheſt nor Bedding, or other Moveables aboard, equivalent to their Wages, they muſt give the Maſter Security that they will ſerve out the reſt of the Voyage, and ſee it compleated, or he may refuſe to pay them before.

ARTIC. XXXII.

Thoſe Seamen who bargain'd for a certain Proportion of the Ship's Fraight, inſtead of Wages in Money, in caſe Fraight is not to be had for her when ſhe arrives at the Port for which ſhe was bound, and ſhe muſt go further in queſt of it, they muſt go with her: But thoſe Seamen who agreed to be paid in Money, ſhall have their Wages there.

ARTIC. XXXIII.

When a Ship is ſafe at Anchor, the Seamen may go aſhoar one after another, or two together, and carry ſufficient Meat and Bread with them for one Meal, but no Drink. Nor muſt they ſtay any long Time aſhoar: For if thro' their Abſence any Damage happens to the Ship or Goods, they are oblig'd to make Satisfaction. And if any one of the Crew is wounded, or comes by any other ill Accident in doing the Merchant's Buſineſs, the Merchant is bound to cure him, and indemnify the Maſter, Pilot and Mariners.

ARTIC. XXXIV.

A Ship being let out to Hire to a Merchant to fraight her, and he agrees to load her in a certain Time; if he fails and exceeds that Time, fifteen Days or more, and by this Means the Maſter loſes his Opportunity to fraight his Ship; the ſaid Merchant ſhall make him Satisfaction for his Delays, and pay his Damages and Intereſt, a Quarter of which belongs to the Mariners, and three Quarters to the Maſter.

ARTIC. XXXV.

If the Maſter being upon his Voyage wants Money, he muſt ſend home for it; but ought not to loſe a fair Opportunity of proceeding; if he does he ſhall ſatisfy the Merchant for all the Damage he may ſuſtain by his Delay: But in Caſe of great Neceſſity he may ſell Part of the Merchandize, and when he arrives at his deſtin'd Port, he ſhall pay the Merchant for them at the ſame Price the reſt was ſold at, and the Merchant ſhall pay Fraight as well for the Merchandize the Maſter ſold, as for thoſe he deliver'd him.

ARTIC. XXXVI.

When the Maſter arrives in a Port, he ſhould be careful to place his Ship well, to moar her well; for if by his Neglect in this the Merchandize aboard comes by any Damage, he is oblig'd to make it good.

ARTIC. XXXVII.

If a Ship has been in a Storm, and the Merchant, Maſter or Crew think ſhe ought to be refitted, to enable her to continue her Voyage, they may do it, and then proceed. However, the Maſter ſhall be paid his Fraight for the Goods ſav'd, which are for the Merchants Profit only. If the Merchant has no Money, and the Maſter will not give him Credit, he may take his Merchandize in Payment at the Market Price.

ARTIC. XXXVIII.

The Maſter ſhall not throw any Goods overboard, without firſt conſulting the Merchant; and if the Merchant will not conſent to it, yet if two or three of the moſt experienc'd Mariners think it neceſſary, they may be thrown overboard, but the Mariners muſt ſwear they thought 'twas expedient ſo to do. If there's no Merchant or Factor aboard, the Maſter and Major part of the Mariners may reſolve upon what is fit to be done.

ARTIC. XXXIX.

The Merchandize thrown overboard ſhall be valued in the *Avaridge*, at the Price the reſt was ſold for, Fraight only deducted.

ARTIC. XL.

The Maſter in the *Avaridge* ſhall pay his Proportion for the Goods thrown overboard, either by calculating what the Ship is worth, or what the Fraight amounts to at the Choice of the Merchant; and the Merchant ſhall pay his, according to the value of the remaining Merchandize. It ſhall be left to the Merchant to leave or take the Ship at the Price the Maſter rated her at.

ARTIC. XLI.

If any one has Plate or Merchandize of great Price in his Cheſt, he is bound to declare it before hand, and ſo doing he ſhall be paid for his Merchandize according to its Worth, and the Plate after the Rate of two Deniers for one.

There is ſomething a little dark in this Article; but 'tis as we found it in the French *Verſion; as is alſo what is obſcure in others; and we excuſe the Tranſlator, conſidering the* Teutonick *is an untoward Language to turn into* French. *We wiſh our Readers may have as much Tenderneſs for us.*

ARTIC. XLII.

If any one has Money in his Cheſt, let him take it out and carry it about him, and he ſhall pay nothing.

ARTIC. XLIII.

If a Cheſt is thrown overboard, and the Proprietor does not declare what is in it; it ſhall not be reckon'd in the *Avaridge*, but for the Wood and the Lock, if it is lock'd, according to their Value.

ARTIC. XLIV.

If it is thought convenient in any River, or off any dangerous Coaſt to take aboard a Pilot of the Country, and the Merchant oppoſes it, yet if the Maſter, the Ship's Pilot, and the major Part of the Seamen are of another Opinion, he may be hir'd, and the Pilot ſhall be paid by the Ship and Cargo, as *Avaridges* are calculated for Goods thrown overboard.

ARTIC. XLV.

If a Maſter is reduc'd to Straits for Want of Money or Victuals, and for that Reaſon forc'd to ſell Part of his Merchandize aboard, or borrow Money at *Bottomree*, he ought to pay within 15 Days after his Arrival, for the Merchandize at a reaſonable Price, neither the higheſt nor the loweſt; and if he does not, and the Ship be ſold, and another Maſter put in her, the Merchant to whom the Merchandize belong'd, or the Creditor that lent the Money on *Bottomree*, ſhall at any Time within a Year and a Day, have a good Right to the Ship, till Satisfaction is made for the Goods ſold, or Money borrow'd.

ARTIC. XLVI.

A Ship being loaden, the Maſter ought not to take in any more Merchandize, without Leave of the Merchant: If he does, and there happens any Occaſion to throw Goods overboard, he ſhall pay as much as he took in Goods over and above the Ship's Loading. Wherefore he ought when he is lading, to declare how much Goods he has, and ought to have aboard.

ARTIC. XLVII.

The Seamen are oblig'd to keep and watch the Merchandize at the requeſt of the Merchants, Maſter and Pilot.

ARTIC. XLVIII.

If for the Preſervation of the Commodity, the Seamen turn up the Corn aboard, they ſhall be allow'd a Denier a *Laſt* for each Time, and if they will not do it, they are liable for the Damage that comes to it for want of it. They ſhall alſo be allow'd a *Denier* a *Laſt* for unlading, and ſo for other Merchandize.

ARTIC. XLIX.

The Mariners ought to repreſent to the Maſter what Condition their Tackling for lading and unlading is in; that if the Cordage is out of repair, or any other Part of it, it may be mended. And if the Maſter does not do it, he ſhall be accountable for whatever Damage happens by that Means; but if the Mariners do not make their Repreſentation, the Accidents that befal the Merchandize ſhall be indemnify'd at their Expence.

ARTIC. L.

If two Ships ſtrike againſt one another and receive Damage, the Loſs ſhall be born equally between them, unleſs the Men aboard one of'em did it on purpoſe; in which Caſe that Ship ſhall pay all the Damage.

ARTIC. LI.

To prevent all Inconveniences, all Maſters of Ships are requir'd to faſten *Buoys* to their Anchors, on Pain of making Satisfaction for all the Damage that may happen for want of them.

ARTIC. LII.

When a Ship arrives at her Port of Diſcharge, ſhe ought to be unladen with all poſſible Diſpatch, and the Maſter to be paid in

8 or 15 Days at fartheſt, according to the Circumſtances of the Voyage.

ARTIC. LIII.

If a Ship fraighted for one Port, enters another, the Maſter together with two or three of his chief Mariners, ought to clear themſelves upon Oath, that 'twas by Conſtraint and Neceſſity that they went out of their way. After which he may proceed in his intended Voyage, or ſhip the Cargo aboard other Ships, paying Fraight for the Goods, which the Merchant ſhall alſo pay him, and what elſe is due on account of the Merchandize.

ARTIC. LIV.

'Tis forbidden to any Mariner to go out of the Ship, and leave it, after the Voyage is done and the Ship diſcharg'd, unleſs her Sails are all in, her Furniture taken away, and ſhe is ſufficiently lightned of her Ballaſt.

ARTIC. LV.

If a Ship ſtrikes, the Maſter may take out part of his Cargo, and relade it aboard other Ships, and the Charges of it ſhall come into a general *Avaridge* upon Ship and Goods. However, the Maſter and two or three of his Seamen ſhall purge themſelves upon Oath, that they were forc'd to do it to ſave the Ship and Cargo.

ARTIC. LVI.

When a Ship arrives at the Mouth of any River or Harbour, and the Maſter finds ſhe's too heavy loaden to ſail up, he may put part of the Cargo aboard Hoys, Lighters, or Barges, and an *Avaridge* ſhall be made for it, of which the Maſter ſhall pay two Thirds, and the Merchant one Third; but, if after the Ship is entirely diſcharg'd, the Ship draws too much Water, and cannot ſail up, then the Maſter ſhall pay all the Charges.

ARTIC. LVII.

The Merchandize being put aboard Lighters, in order to be landed, if the Maſter has any Jealouſie of the Merchant's Ability or Honeſty to pay him, he may ſtop it at his Ship's Side, and refuſe to let it go, till the Merchant has paid him in full for his Fraight and Charges.

ARTIC. LVIII.

All Lighters, open or cloſe, ſhall be diſcharg'd in five Days.

ARTIC. LIX.

When a Ship is at Anchor before an Harbour with which her Pilot is not well acquainted, the Maſter ought to hire one at the Place to carry his Ship into it, who ſhall be paid by Ship and Cargo.

ARTIC. LX.

When a Ship is in an Harbour or River, and the Maſter does not know the Coaſt nor the River, he ought to take a Pilot of that Country to carry her up the River or Harbour, which Pilot ſhall be maintain'd by the Maſter, and paid by the Merchant.

ARTIC. LXI.

If a Seaman deſerts his Ship, and carries away what he has receiv'd of the Maſter, and the Maſter apprehends him, the Fact being prov'd upon him by the Depoſitions of two other Seamen, he ſhall be condemn'd to be hang'd, and executed.

ARTIC. LXII.

If a Maſter diſcover that a Mariner is infected with any contagious Diſtemper, he may put him aſhoar on the firſt Land he makes, without being bound to pay him any Wages, provided the Caſe be prov'd by the Atteſtations of two or three of the other Mariners belonging to his Ship.

ARTIC.

ARTIC. LXIII.

If a Pilot or Mariner buys a Ship, or is made Maſter of one, he ſhall be diſcharged from his own Maſter, paying him back what he receiv'd of him; and it ſhall be the ſame if he marries.

ARTIC. LXIV.

If the Maſter, Merchant and Owners have any Difference, and the Owners will not furniſh their Quota of the Charge of the Out-ſet; the Maſter may nevertheleſs proceed in his Voyage or Voyages with the ſaid Ship, paying the Seamen what he thinks reaſonable.

ARTIC. LXV.

If the Maſter lays out any Money in repairing or refitting his Ship, or buys any Tackling, or any thing elſe for her Uſe, he ſhall be reimburs'd, and every Owner pay his Part.

ARTIC. LXVI.

If the Merchant obliges the Maſter to inſure the Ship, the Merchant ſhall be oblig'd to inſure the Maſter's Life againſt the Hazards of the Sea.

ARTIC. LXVII.

If two Ships ſtrike againſt one another, and one of them unfortunately periſhes by the Blow, the Merchandize that is loſt out of both of them, ſhall be valued and paid for *pro rata* by both Owners, and the Damage of the Ships ſhall alſo be anſwer'd for by both according to their Value.

ARTIC. LXVIII.

In caſe of Neceſſity the Merchant may ſell part of the Merchandize to raiſe Money for his Ship's Uſe; and the Ship happening to be loſt afterwards, the Maſter ſhall however be oblig'd to pay the Merchant for the ſaid Merchandize ſo ſold, without pretending to deduct any thing for the Fraight.

ARTIC.

ARTIC. LXIX.

When the Master is forc'd to sell any of the Merchandize, he is oblig'd to pay the same Price for them, as the same Goods were sold for at the Market for which they were design'd, and the Master shall be paid his Fraight for what Goods are sold.

ARTIC. LXX.

If a Ship under Sail does Damage to another, the Master and Mariners of the Ship doing the Damage, must swear they did not do it designedly, and could not help it, and then the Damage shall be born by both Ships in equal Proportion; and if they refuse to swear, the Damage shall be paid by the Ship that did it.

Of the Laws *of the* Hanse *Towns.*

BEfore we give the Reader an Abstract of these Laws, which were founded on those of *Oleron* and *Wisbuy*, we shall say something of these Towns, and how they came by their Name and Privileges.

By the *Hanse* Towns, we must understand a Participation of Privileges granted by several Kings, Princes, States, and Governors, to the Merchants of *Germany* trading in the four Towns of *Bruges* in *Flanders*, *London* in *England*, *Bergen* in *Norway*, and *Novogrod* in *Russia*, which were the four first Towns out of *Germany* that agreed on this mutual Participation of the Privileges, which had been granted them by their several Princes for the Benefit of Commerce. *Lewis* XI. admitted them into *France*, and encourag'd them: And his Successor *Charles* VIII. enter'd into a formal League with them in 1584. by which he allow'd them the Privilege, living or dying, to dispose freely of what Goods and Commodities they had in *France*. They were also exempted from paying any new Tribute, Custom, or Duty for their Merchandize. The *Hanse* Towns, in Return, by a Declaration of their general Assembly, allow'd the *French* in their Countries the same Pri-

Privileges with themſelves. *Charles* VIII's Treaty with them was renew'd and ratify'd by an Edict of *Henry* II. in the Year 1547. There were four Towns in *Germany*, viz. *Lubeck*, *Brunſwick*, *Dantzick* and *Cologn*, that before the four Cities before mention'd, *viz.* in the Year 1254, enter'd into a Confederacy, concluded an offenſive and defenſive League among themſelves, and reciprocally communicated their Rights and Privileges of Burgherſhip, with Liberty and Freedom of Trade to one another; That cancell'd all Laws which impos'd Duties on each other, and flouriſh'd after it ſo much, that all other Sea-port Towns, or Towns ſeated on Navigable Rivers in *Germany*, deſir'd paſſionately to be admitted into the League; ſo that the Number was encreas'd to 72, ſome ſay 81. This Community or Communication of Burgherſhip was call'd *Aenzee Steden*, that is to ſay, Towns upon the Sea: Which for Abbreviation was afterwards pronounc'd *Anſeſche:* The *French* call it *Hanze*; and we *Hanſe*. Their principal Privileges were the League Offenſive and Defenſive; whoever attack'd one of them attack'd all, and whoever was free of one Town, in Reſpect to Trade, was free of all, and enjoy'd the ſame Immunities and Franchiſes with the Burghers, and paid no more Cuſtom nor Impoſitions, than what they paid. The *Maris Stantes*, or Factories of theſe *Hanſe* Towns, were at *London*, *Bruges*, *Bergen* and *Novogrod*; in all which Cities they had a Quarter for themſelves. That at *London* was call'd *Stalhof*, or Steel-yard; for none were allow'd to Import Iron or Steel, but themſelves. It is now call'd *Stillyard*, and made uſe of by the *German* Merchants for Iron. They remain'd at *London* till Queen *Elizabeth*'s Reign, when on ſome Difference with the Court, they left their Factory there, pretending the Queen had wrong'd them in ſome Impoſitions ſhe laid upon them. Upon which the Emperor *Rodolphus* baniſh'd all the *Engliſh* out of his Territories.

This is the Account our *French* Author gives of the Matter; but our own Hiſtories will inform us of the Truth much better. Such then was the Caſe of the *Hanſeatique* Factories in *England*: *Henry* III. granted them extraordinary Privileges, for their great Aſſiſtance, and Furniſhing him in his Wars and *Naval* Expeditions, with ſeveral Ships; and as they pretended, the King was not only to pay them for the Service of their Ships, but for the Veſſels themſelves in Caſe they miſcarried. The King having concluded a Peace, and they being on their Return home for *Germany*, the moſt conſiderable Part of their Fleet miſcarry'd by Storm and Streſs of Weather; for which, according to Covenant, they demanded Reparation. The King having little Money to ſpare,

ſpare, granted them ſeveral Immunities, and among others they were to pay but 1 *per Cent.* Cuſtom, which continu'd till Queen *Mary*'s Time; and by the Advice of *Philip* ſhe rais'd the 1 *per Cent.* Cuſtom to 20. The *Hanſeatiques* not only complain'd, but clamour'd aloud for the Breach of their ancient Privileges confirm'd to them by long Preſcription from Thirteen ſucceſſive Kings of *England*, alledging, that they were the more unjuſtly dealt with, for that they had purchas'd thoſe Privileges with their Money. King *Philip* undertook to accommodate the Buſineſs; but he leaving *England*, and Queen *Mary* dying, nothing was done in it. The Agents for the *Hanſe* Towns complaining to Queen *Elizabeth* of their Grievances, ſhe anſwer'd, that *as ſhe would not innovate any thing, ſo ſhe would ſtill protect them in the Immunities and Conditions ſhe found them.* Upon which their Trade and Navigation were a while ſuſpended. This prov'd very advantageous to the *Engliſh*; for they try'd what they cou'd do themſelves in it: And their Attempts prov'd ſucceſsful, their Traffick turn'd very well to account, and they took the whole Trade into their own Hands, dividing themſelves into Staplers and Merchant Adventurers; the one reſiding conſtantly at one Place, the other keeping their Courſe, and adventuring to other Towns and States abroad with Cloth and other Manufactures. The *Hanſe* Towns were ſo enrag'd at this, that they devis'd all the ways a diſcontented People could invent, to draw upon our new Staplers or Adventurers, the ill Opinion of other Nations and States: But that proving of too ſmall Force to ſtop the Current of ſo ſtrong a Trade as they had enter'd upon, their Enemies had Recourſe to another, and apply'd themſelves to the Emperor, as being a Body incorporated to the Empire, and obtain'd an Embaſſy to be ſent to the Queen, to mediate the Buſineſs; but they return'd ſtill *re infecta.* Upon which the Queen caus'd a Proclamation to be publiſh'd, *That the Merchants of the* Hanſe *ſhould be treated and us'd as all other Strangers within her Dominions, in point of Commerce, without any Mark of Diſtinction.* This inflam'd the *Hanſeatiques* the more, and they procur'd in the Imperial Dyet at *Ratisbonne*, that the *Engliſh* Merchants who had aſſociated themſelves in Corporations, both in *Embden* and other Places, ſhould be adjudg'd *Monopoliſts.* Upon which a Comitial Edict was put forth to baniſh them out of all Parts of the Empire. This Edict was drawn up by the great *Civilian*, *Suderman.* The Queen had as great a *Civilian* to plead for the *Engliſh* Merchants; and the Chancellor of *Embden* ſeconded him; yet they cou'd not ſtop the Edict by which the new erected Society of *Engliſh* Adventurers, was pronounc'd a

Mo-

Monopoly: Yet *Gilpus*, the Queen's Agent, prevail'd ſo far as to have the Imperial *Ban* delay'd a little, till the Imperial Ambaſſador had inform'd the Queen of theſe Proceedings againſt her Merchants. However, the *Ban* was at laſt publiſh'd, and the Thunder made more Noiſe, than it did Hurt. The Towns of *Embden* and *Stode* ſtill harbour'd the *Engliſh* Merchants; and when the *Hanſeatiques* got them to be driven out of thoſe Towns, they remov'd to *Hamburgh*. The *Hanſeatiques* proſecuted them there, and Queen *Elizabeth* taking into Conſideration the Condition of her Merchants in *Germany*, commanded another Proclamation to be publiſh'd, *That the* Hanſeatick *Merchants ſhould be allow'd to trade to* England *upon the ſame Conditions as they formerly did: Provided the* Engliſh *Merchants might have the ſame Privileges, and reſide and trade peaceably in* Stode *or* Hamburgh, *or any where elſe within the Precincts of the* Hanſe. The *Hanſeatiques* were ſo far from being ſatisfy'd with this, that they did all they could to have *Stode* and *Hamburgh* cut off from being Members of the *Hanſe*, or of the Empire, for harbouring the *Engliſh*. Which Deſign they ſuſpended till they ſaw the Succeſs of King *Philip*'s Expedition in 1588. that King having promis'd to do them ſome good Offices in the Concern. The Queen finding they were not contented with that Equality ſhe had offer'd to make between them and her own Subjects, but were uſing ſuch extraordinary Means, put forth another Proclamation, *That they ſhould tranſport neither Corn, Victuals, Arms, Timber, Maſts, Cables, Metals, or any other Materials, or Men, to* Spain *or* Portugal. And when ſhe had triumph'd over King *Philip*, the *Hanſe* began to deſpair of doing any good, eſpecially when her Majeſty's Fleet had taken about the River of *Lisbon*, 60 Sail of their Ships laden with *Ropas de Contrabanda*. This good Queen inclin'd to diſcharge this Fleet, on reconciling the Differences between the *Hanſeatiques* and her own Merchants: But when ſhe heard that an extraordinary Aſſembly was met at *Lubeck*, to conſult of Means to be reveng'd of her, ſhe order'd all thoſe 60 Sail to be condemn'd as Prize, except two, which were freed to carry the ill News to the *Hanſe*. The King of *Poland* pretending to right the injur'd *Hanſe*, ſent an Ambaſſador to the Queen; who in a very high Tone demanded Satisfaction: But the Queen anſwer'd him her ſelf ſo greatly and ſo ſuddenly, that the *Pole* ſoon found he had to do with a Princeſs who was not to be work'd upon by Threats. This happy Difference about the 19 *per Cent.* has prov'd very advantageous to the *Engliſh*, who have ever ſince

driven a peaceable and uninterrupted Trade into *High* and *Low Germany*, and by their Commerce in those Parts, have found a Way thro' the *White Sea* to *Archangel* and *Moscow*. We must now return to our Author, and his Treatise concerning the *Hanse* Towns.

Bruges being 9 Miles from the Sea, the *Hanse* Factory was remov'd to *Antwerp*; where their Hall is the most noble Structure in the City, taken with the Buildings that belong to it. *Novogrod*, one of the four first Factories, is the Capital of *Russia*. The great Duke *Basilius* took it from the King of *Poland* in the Year 1523. and transferr'd the Trade of *Cafan* thither. *Bergen* is the Capital and chief trading Town of *Norway*. *Lubeck* is the Mother of the *Hanse* Towns, and was rebuilt, in the Year 1104, by *Adolphus* Count of *Holstein*. The Emperor *Frederick* I. made it a free City, and ennobled it in the Year 1161. He had besieg'd it with an Intention to destroy it; but was dissuaded from it by *Henry* then Bishop of that City: He appointed it to be the chief Mart of *Germany*, that it shou'd be govern'd by Sheriffs, and granted it several Franchises, Immunities, and other great Privileges, which this City has since communicated to the other *Hanse* Towns: 'Twas this Emperor allow'd a free Trade and Liberty to establish Factories at *London*, *Bruges*, *Bergen* and *Novogrod*. On which account the other Cities look'd upon it as their Chief: Here all Councils concerning the general Affairs of the *Hanse* Towns are holden; 'twas here the Citizens of *Brunswick*, in the Year 1371, and the *Flemings* in the Year 1387, were turn'd out of *Hanseatique* Confederacies, for laying new Impositions on Trade; however, this Difference was afterwards compromis'd. 'Twas here that the *Sea Laws*, which we have here inserted, were made and promulgated in the *German* Tongue, in a General Assembly in the Year 1597.

The

The Laws *of the* Hanſe *Towns.*

ARTIC. I.

NO Maſter ſhall undertake to build a Ship, unleſs he is aſſur'd that his Owners and Undertakers are agreed upon what Model it ſhall be built, and on every thing relating to the Building of it: Which Undertakers and Owners ſhall be Burghers and Inhabitants of one of the *Hanſe* Towns, and no others. However, if the Maſter will go through with the Building at his own Expence, he may do it; otherwiſe he muſt always have the Conſent of thoſe Burghers that are concern'd with him, on Pain of forfeiting half a Dollar a Tun.

In the Hanſeatique *Stile, or the Stile of the* Hanſe *Towns, the Owners of Ships are call'd Burghers: Becauſe none but the Burghers of thoſe Cities in* Germany, *were permitted to build Ships. The Inconvenience provided againſt by this Article, is to ſave the Materials of Building, that none might undertake what they cou'd not go through with, and thereby the Materials be loſt: For if he who begins to build a Ship, is not very well able to perfect it, and has not the Approbation of his Joint Owners or Partners, ſuch is often the End of too raſh Beginnings of this kind.*

ARTIC. II.

No Maſter ſhall begin to build a Ship, after he and his Joint Owners or Partners have reſolv'd upon it, till they have agreed among themſelves of what Bigneſs, Height and Depth ſhe ſhall be, how broad and how long, and this Agreement ſhall be taken in Writing on Pain of forfeiting 12 Sols a Tun.

'Tis the Cuſtom in the Levant; *if, during the Building of a Ship, any one of the Owners dies, his Heirs are not oblig'd to continue the Partnerſhip; but the Maſter-Undertaker is bound to look out for another Owner in the room of him that's dead; and this new Owner muſt pay the Heirs of the deceas'd what the latter advanc'd on this account.*

ARTIC. III.

The Maſter in like manner ſhall not repair the Ship, Sails or Cordage without the Owners Conſent, on Pain of being at all the Charge of it himſelf, unleſs in Caſe of Neceſſity, when he is in a ſtrange Country.

ARTIC. IV.

The Maſter may not buy any thing whatſoever for his Ship, unleſs 'tis in the Preſence, and with the Conſent of one or two of the Partners; if he does he ſhall forfeit 50 Sols: Nor ſhall the Maſter, or any of the Owners, buy any thing for the Ship's Uſe, upon the Credit of the other Owners who wou'd pay ready Money for their part of the Diſburſement.

ARTIC. V.

An Inventory ſhall be taken of every thing the Ship wants, that it may be bought by the Maſter and Owners jointly.

ARTIC. VI.

The Maſter ought to buy every thing at the cheapeſt Rate without Fraud, on Pain of Corporal Puniſhment; and he ſhall enter in his Account, the Name of the Perſon of whom he bought the Goods, and where they live.

ARTIC. VII.

If a Maſter or Mariner keep back any of the Merchandize he took in on Fraight, they ſhall be apprehended and puniſh'd as Robbers, unleſs 'twas in Caſe of Neceſſity.

ARTIC. VIII.

Nor may they give above the Market Price for any Proviſions, and what they buy ſhall be carry'd to the Ship's Store-houſe, and be kept there till ſhe is ready to ſail.

ARTIC. IX.

All Maſters are forbidden to ſell any of the Ship's Proviſions, on Pain of being puniſh'd as Thieves; except 'tis at Sea, when they meet with other Ships in Diſtreſs and Danger of periſhing for want of them: For which they ſhall however be accountable to the Owners.

ARTIC. X.

The Maſter when the Ship is return'd, is oblig'd to deliver up to the Owners, the Remains of his Victuals and Ammunition.

ARTIC. XI.

The Maſter is oblig'd to ſet Sail two or three Days after his Ship is loaden, if the Wind is fair, on Pain of forfeiting 200 Livres; and in Caſe any one of the Owners has not paid his Quota of the Charge of the Ship's Out-ſet by that Time, he ſhall forfeit as much: And the Maſter may beſides, borrow Money on *Bottomree*, for the deficient Owner's Quota. The Merchants are bound to load the Ship by a prefix'd Time, on Pain of paying the whole Fraight, notwithſtanding the Ship proceeds in her Voyage light, and in her Ballaſt only.

ARTIC. XII.

When the Maſter gives in his Account, he ſhall ſummon all his Owners together, on Pain of 100 Livres Forfeit.

ARTIC. XIII.

The Maſter ſhall not take any Merchandize aboard on his Head, or by Conſent of any one of his Owners, without the Approbation of them all: If he does, the Penalty is Confiſcation, or other Puniſhment.

ARTIC.

ARTIC. XIV.

The Owners having lawful Cauſe, may turn off a Maſter, paying him for what Share he has in the Ship, at the Price it coſt him.

ARTIC. XV.

All Owners are forbidden to entertain any Maſter, unleſs he produces a Certificate of his Honeſty and Ability, and that he quitted the Service of the Merchants he ſerv'd laſt, with their Conſent: If they do, they ſhall pay 25 Crowns Penalty.

ARTIC. XVI.

Before the Maſter hires any Mariner or Pilot, he ought to acquaint the Owners with what Wages he is to give them, and have their Allowance of it, under Penalty of 25 Crowns.

ARTIC. XVII.

If ſeveral Ships are in Company on the ſame Voyage, they are oblig'd to ſtay for one another, or be liable to all the Damages that may happen to the others by an Enemy or Pirates.

ARTIC. XVIII.

No Maſter ſhall hire a Mariner, before he has ſeen his Paſs or Certificate of his faithful Behaviour in the Service of his laſt Maſter, on Pain of forfeiting 100 Sols, unleſs he is neceſſitated to it in a ſtrange Country.

ARTIC. XIX.

Maſters are oblig'd to give *Mariners* Certificates of their faithful Service; and if any one refuſes, or delays, he ſhall forfeit 100 Sols.

ARTIC. XX.

A Ship being forc'd to ſtay or Winter in a ſtrange Country, the Mariners are not to go out of her without the Maſter's Permiſſion, on Pain of loſing half their Wages.

ARTIC. XXI.

If the Maſter maintains the Mariners all the Winter, they cannot oblige him to give 'em more Wages: But if they endeavour to do it, they ſhall forfeit half of what they were to have had, and be puniſh'd further, according to the Circumſtances of their Offence.

ARTIC. XXII.

No Seaman may go aſhoar without the Conſent of the Maſter, Pilot, Mate or Clerk of the Ship, under Penalty of 25 Sols for each Time.

ARTIC. XXIII.

The Seamen who are aſhoar with the Maſter, are oblig'd to look after the Boat, and return aboard as ſoon as they are commanded: And who ſtays or lies aſhoar, ſhall pay a Forfeit, or ſuffer Impriſonment.

ARTIC. XXIV.

If the Maſter changes his Voyage, and ſteers another Courſe than was intended, he ought firſt to have the Conſent of his Mariners, or pay them what the major Party of them ſhall adjudge to be due to them for his changing of the Voyage: And if then any one of them will not obey him, he ſhall be puniſh'd as a Mutineer.

ARTIC. XXV.

If any Mariner ſleep on a Watch, he ſhall pay four Sols Forfeit: And whoever finds him aſleep, and does not diſcover it, two Sols.

ARTIC. XXVI.

All Seamen are forbidden to moor any Skiffs or Boats to a Ship's Side, on Pain of Impriſonment.

ARTIC. XXVII.

He who ſhall be found uncapable of diſcharging his Duty as a Pilot or Mariner, for which he has receiv'd Wages, ſhall forfeit all that was promis'd him, and be beſides puniſh'd according to his Demerit.

ARTIC. XXVIII.

Maſters ſhall pay their Seamen at three Payments; one Third when the Ship ſets ſail, outward bound; one Third when ſhe's unloaden, and the other when ſhe is return'd home.

ARTIC. XXIX.

A Maſter may at any time turn away a Mariner that rebels againſt, or is unfaithful to him.

ARTIC. XXX.

If one Mariner kills another, the Maſter is bound to ſeize him, and keep him in ſafe Cuſtody till he arrives at his Port, and then to deliver him up to Juſtice to be puniſh'd.

ARTIC. XXXI.

The Seamen may not feaſt and carouſe in the Ship without the Maſter's Leave, on Pain of loſing half their Wages.

ARTIC. XXXII.

No Seaman ſhall let his Wife lye aboard under Penalty of 50 Sols.

ARTIC. XXXIII.

No Seaman ought to carry Powder and Shot without the Maſter's Conſent, on Pain of paying double the Value of it.

ARTIC. XXXIV.

The Maſter is bound when he returns home, to give an Account before the Magiſtrate, of what Forfeitures he receiv'd, and for what, under Penalty of 25 Crowns.

ARTIC. XXXV.

The Seamen are oblig'd to defend the Ship againſt Rovers, on Pain of loſing their Wages; and if they are wounded, they ſhall be heal'd and cur'd at the general Charge of the concern'd in a common *Avaridge*. If any one of them is maim'd and diſabled, he ſhall be maintain'd as long as he lives by a like *Avaridge*.

ARTIC. XXXVI.

If the Mariners, or any of the Company refuſe to aſſiſt on the like Occaſion, and the Ship be taken or loſt, they ſhall be condemn'd to be whipp'd as Cowards and Raſcals.

ARTIC. XXXVII.

If the Mariners reſolve to defend the Ship, and the Maſter is afraid and againſt it, he ſhall be turn'd out of his Poſt with Infamy, and declar'd uncapable of ever commanding a Ship afterwards.

ARTIC. XXXVIII.

The Ship's Ballaſt ſhall be carry'd to the Place deſign'd for it, and thoſe that are refractory, and will not help in it, ſhall be puniſh'd by the Magiſtrates of the Place.

ARTIC. XXXIX.

If any Seaman is wounded in the Ship's Service, he ſhall be cur'd at the Charge of the Ship, but not if he is wounded otherwiſe.

ARTIC. XL.

If any one of the Seamen goes aſhoar without Leave, and the Ship happens to receive any Damage in the Time, or to be loſt for want of Hands, he ſhall be kept in Priſon upon Bread and Water for one Year; and if any Seaman dies or periſhes with the Ship for want of the Aſſiſtance of the abſent Seaman, the latter ſhall be puniſh'd with Corporal Puniſhment.

ARTIC. XLI.

If a Mariner behaves himſelf ill, the Maſter may turn him off, but if he diſcharges him for no Reaſon before the Voyage begins, he ſhall pay him a third Part of his Wages, but ſhall not charge it in the Ship's Account.

ARTIC. XLII.

If the Maſter diſcharges a Seaman during the Voyage, for no lawful Cauſe given, he is bound to pay him his whole Wages, and defray the Charge of his Return: But if the Mariner deſires the Maſter's Leave to quit the Ship, he ſhall be bound to reſtore all the Money he receiv'd, and pay his own Charges.

ARTIC. XLIII.

If an Officer or Seaman quits a Ship, and conceals himſelf; if afterwards he is apprehended, he ſhall be deliver'd up to Juſtice to be puniſh'd: He ſhall be ſtigmatiz'd in the Face with the firſt Letter of the Name of the Town to which he belongs.

ARTIC. XLIV.

If a Ship is loſt, the Mariners are oblig'd to ſave as much of the Goods as they can, and the Maſter ought to reward and ſatiſfy

fy them for it, and pay the Charge of their Journey home: If the Mariners refuſe to aſſiſt the Maſter, they ſhall have neither Wages nor Reward.

ARTIC. XLV.

If any Mariner falls ſick of any Diſeaſe, he ſhall be put aſhoar and maintain'd in like manner as if he was on Ship-board, and be tended by another Mariner. However, the Maſter is not oblig'd to ſtay for him; if he recovers his Health he ſhall be paid his Wages as much as if he had ſerv'd out the whole Voyage; and in Caſe he dies, his Heirs ſhall have what was due to him.

The Spaniards *are the moſt unkind, and indeed unjuſt to their ſick Mariners of any People: For they neither pay them any Wages, nor maintain them, unleſs they pay for others to ſerve in their ſtead. And what is ſtill worſe, if during their Sickneſs any Accident or Damage happens to the Ship or Goods, thoſe Mariners that were ill are oblig'd to make Satisfaction: their Sickneſs being no Plea for them, according to the* Laberinto de Comercio libro tertio cap. Navigantis numero 18.

ARTIC. XLVI.

If Mariners mutiny, and force the Maſter to enter into any Harbour or Port, and the Ship or Cargo is loſt, either in Whole or in Part, for which the Seamen run away; if afterwards they are taken they ſhall be corporally puniſh'd.

ARTIC. XLVII.

The Maſter ſhall not give the Seamen any Cauſe to mutiny, but ſupply them with what is convenient, and pay them what is their due punctually and faithfully.

ARTIC. XLVIII.

The Maſter who ſhall debauch a Seaman, and hire him after he had hir'd himſelf to another Maſter, ſhall pay 25 Livres, and the Mariner ſhall pay to the firſt Maſter for Damages, half the Wages the ſecond had promis'd him.

ARTIC. XLIX.

If a Ship is ſtopp'd in a ſtrange Country, or the Mariners are forc'd to ſtay there for their Fraight, or on another account, they ſhall all that Time be maintain'd as is uſual; but ſhall not pretend to demand any extraordinary Wages, and what is due to them ſhall be paid to them or their Aſſigns, when the Ship is diſcharg'd. If any Seaman is ſo bold as to leave the Ship becauſe of her Stay, he ſhall be corporally puniſh'd according to his Demerits.

ARTIC. L.

If a Maſter takes any Gold, Silver, Diamonds, or other Merchandize of great Price, which obliges him to have a more than ordinary Care of it, a fourth Part of the Fraight of ſuch rich Goods ſhall be allowed him, and the Owners ſhall have the other three Fourths.

ARTIC. LI.

The Maſter ought to put a Mariner in each Boat or Lighter that is to carry Salt to Land, as well to take Care of it, as to ſee that a right Account is kept of its Meaſure.

ARTIC. LII.

Mariners hir'd aboard Ships bound for *France* or *Spain*, ſhall not be maintain'd by the Maſters when they are outward bound, but ſhall live on their own Proviſions; but when they are homeward bound, the Maſter ſhall maintain them: And if the Maſter advances or lends them any Money, he may pay himſelf, by deducting it out of their Wages. If the Ship is not loaden home, the Maſter is not oblig'd to maintain them.

ARTIC. LIII.

The Mariners may not alienate or ſell any part of their Proviſions or Furniture till the Voyage is made, and when they do, the Owners ſhall be preferr'd to any other in the Sale of them.

ARTIC. LIV.

The Mariners ſhall not take any Grains of Salt belonging to the Ship's Loading, but ſhall put ſome aboard for their own Uſe, with the Knowledge and Conſent of the Mercha.. or others concern'd, on Pain of being ſeverely puniſh'd.

ARTIC. LV.

The Maſter or the Pilot may each load 12 Barrels on their particular Account; the other Officers ſix each, and the Seamen four each; the Cook and the Boys two each.

This is what is called Portage *in* France, *where* 12 *Barrels make a Laſt, and one Laſt* 2 *Tuns.*

ARTIC. LVI.

If a Maſter, to diſpleaſe his Owners, ſells his Part of a Ship for more than 'tis worth, the ſaid Part ſhall be appraiſed by Men of Experience. After which the Owners may take it or leave it at the Price it was apprais'd at, as they think fit.

ARTIC. LVII.

If a Maſter fraudulently ſhall borrow Money upon Bottomree, and mortgage his Ship for it, or ſtay with it in any Port a long Time, and ſell it, together with the Merchandiſe, the ſaid Maſter ſhall be incapable of having the Command of a Ship afterwards, and never be admitted into any City, but ſhall be puniſh'd without Mercy.

ARTIC. LVIII.

A Maſter being at home, may not borrow any more Money on Bottomree, than his own Part of the Ship is worth; if he does, the other Shares of the Ship ſhall not be liable for it; neither ſhall he take any Fraight without the Knowledge and Conſent of the Owners.

ARTIC. LIX.

If the Owners are at Variance, and cannot agree about the Fraight of their Ship; that Opinion ſhall carry it which has the Majority on its Side by two or three. The Maſter may alſo in ſuch Caſe, take up Money upon Bottomree, as well on their Shares who do not conſent, as on theirs who do.

ARTIC. LX.

A Maſter being in a ſtrange Country, if Neceſſity drives him to it, may take up Money upon Bottomree, if he cannot get it without, and the Owners ſhall bear the Charge of it.

CHAP. IV.

Containing a Diſcourſe of the Juriſdiction of the Admiralty of England; *together with a ſelect Collection of Adjudged Caſes in ſeveral Courts, with Relation to Maritime Affairs.*

HAving already had Occaſion in treating of the Dominion of the *Britiſh Seas*, to give ſufficient Proofs of the Antiquity of the Office of *Lord High Admiral of England*, &c. I do not here think it neceſſary to take any farther Notice of the uſeleſs Controverſie about the Derivation and Etymology of the Word *Admiral*, in which ſeveral Authors have been very prolix: For as it has been always my Deſign to be more intent upon the Explication of Things than of Words; 'tis enough for me, without troubling my ſelf and the Reader with an Enquiry into the Original Signification of the Word in the Language or Languages from whence it was at firſt deriv'd; to tell that according to its ordinary Acceptation in *Engliſh*, it imports, *A High Officer or Magiſtrate, to whom the Government and Command of the Royal Navy is committed, with Power by him or his inferior Officers and Deputies, to take*

take Cognisance of all Maritime Causes, both Civil and Criminal, &c. And how far, and to what Persons and Cases that High Officer's Power and Jurisdiction extends, 'tis my Design in the following Leaves to examine. And as it has not hitherto been the Happiness of *England* to be bless'd with any positive and regular *System* of Maritime Laws, I shall do my Endeavours to make as short and as methodical a Collection as I can, of what is most worthy to be observ'd, in several Tracts on that Subject; some of which have been written by very good Hands. And before the End of this Treatise, I hope to make it appear, that nothing is so much wanting to compleat the Happiness of *England*, as a certain and decisive Regulation for vesting proper Judges, with an absolute Power of deciding Maritime Controversies, without being liable to any Appeals to other Courts, *&c.* as I shall likewise endeavour to demonstrate in another Piece which shall appear soon after this, that the next most effectual Means for encouraging Trade, and consequently encreasing the Power and Riches of the Nation, would be to establish a Merchant-Court for the Decision of Mercantile Affairs, which is consonant to the Practice of most or all other Nations where Commerce is encourag'd; which I think is a very sufficient Proof of the Reasonableness of the Thing. Nor can I imagine what plausible Pretence can be alledg'd by such as oppose such a beneficial Settlement; since besides the innumerable Conveniencies that would attend it, I humbly presume that it is no ways inconsistent with the Fundamental Laws and Constitutions of the Kingdom: But now to come to the Point, it wou'd require a whole Volume, if I here intended a full Examination and Treatise upon that Subject; but in my Opinion the Learned *Godolphin*, L. L. D. in his *View of the Admiral Jurisdiction*, gives a very succinct and nice Account of that Affair, to the following Purpose.

'The Maritime Government and Jurisdiction is by the King as 'Supreme, vested in the Person of the Lord High Admiral of '*England*, who immediately under the Prince has the chief Com-'mand at Sea, and the Direction of the Maritime Affairs at Land; 'having several Officers under him, some at Sea, and others ashore, 'some in a Military, and others in Civil Capacity; some Judici-'al, and others Ministerial. Those that are Chief in the Judicial 'Capacity, are in the Law distinguish'd by the Title of *Magisteriani*, or Judges of Maritime Controversies, whereof one being 'the Principal, or *Judex ad Quem*, in all Maritime Causes of Ap-'peal from inferiour Courts of Admiralty, is with us known by

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'the Stile of *Supremæ Curiæ Admiralitatis Angliæ Judex*; within 'whoſe Cognizance in Right of the Juriſdiction, according to the 'Sea-Laws, and to the Laws and Cuſtoms of the Admiralty of *Eng-* 'land, are comprehended all Affairs relating in any manner to Na- 'vigation. The Judicial Proceedings wherein are ſummary; *velo* 'levato, & ſine Figura Judicii; as by Warrant of Arreſt or other 'Original Mandate, Execution and Return thereof; Interpoſition 'of Bail given by the Arreſted for his Legal Appearance, according 'to the Tenor of the ſaid Warrant of Arreſt; Appearance and In- 'troduction of Sureties by way of Stipulation or Judicial Recogni- 'zance in the Sum of the Action, *de judicio ſiſti, de judicato & Ex-* 'penſis ſolvendis, cum ratihabitione Procuratorii; as alſo the Plain- 'tiff's Security to pay Coſts, in caſe he fail in his Suit; Contempts 'in Caſe of Non-Acceptance, and the Forfeiture of the ſaid Se- 'curity, in Caſe of ſuch Contempt; offering the Libel in Caſe 'of Appearance; *Litis* Conteſtation, or joyning of Iſſue; De- 'cree for the Defendant's Perſonal Anſwer upon Oath to the ſaid 'Libel exhibited againſt him; a Decree for *a viis & modis* in Caſe 'of a *Non inventus*; a Decree againſt the Sureties to produce the 'Party, Principal *in Judicio*, Production of him accordingly; 'his Anſwer upon Oath to the Libel, Production of Witneſſes 'Compulſory againſt ſuch Witneſſes as will not appear without 'it; Commiſſion for examining Witneſſes at Home, or *ſub mu-* 'tuæ viciſſitudinis obtentu beyond Sea; the Oath of Calumny by 'both Parties, if they pleaſe; Exception againſt the Witneſ- 'ſes; the Supplementory Oath; Exhibition of Inſtruments; 'Publication of Witneſſes; Concluſion of the Cauſe; Sentence 'definitive; Appeal made within fifteen Days of the ſaid Sen- 'tence; Aſſignment *ad proſequendum*, Proſecution of the Appeal; 'Remiſſion of the Cauſe to the Judge *a Quo*, Decree for Exe- 'cution, and Sentence executed accordingly: Beſides the other 'Way of Proceeding by Arreſt of Goods, or of Goods in other 'Mens Hands, and ſo to a *Primum Decretum* (as to the Poſſeſ- 'ſion) upon four Defaults, and then (after one Year) to a *ſe-* 'cundum Decretum (as to the Propriety) in Caſe of *Non-interven-* 'tion (upon laying down the Coſt of the *Prim. Decret.*) in the 'interim. In the Proceedings there may be alſo *Reconvention* and 'Sequeſtration of Goods, *lite pendente*; and Sentence *Interlocuto-* 'ry, as well as Definitive; with many other Particulars which 'may or may not happen, according as the Court ſees Cauſe, and 'the Merits of the Caſe require.

'Within the Cognizance of this Juriſdiction are all Affairs, that 'particularly concern the Lord High Admiral, or any of his Offi- 'cers, *quatenus* ſuch; All Matters immediately relating to the

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'Navies of the Kingdom, the Veſſels of Trade, and the Owners 'thereof as ſuch; All Affairs relating to Mariners, whether Ship-'Officers or common Seamen, their Rights and Privileges reſpe-'ctively; their Office and Duty; their Wages; their Offences, 'whether by Wilfulneſs, Caſualty, Ignorance, Negligence or In-'ſufficiency, with their Puniſhments; Alſo all Affairs of Com-'manders at Sea; and their Under-Officers, with their reſpective 'Duties, Privileges, Immunities, Offences, and Puniſhments: In 'like manner all Matters that concern Owners and Proprietors of 'Ships as ſuch; and all Maſters, Pilots, Steerſmen, Boatſwains, 'and other Ship-Officers; all Shipwrights, Fiſhermen, Ferrymen, 'and the like; Alſo all Cauſes of Seizures and Captures made at 'Sea, whether *jure belli publici*, or *jure belli privati*, by way of 'Reprizals, or *jure nullo*, by way of Piracy; Alſo all Charter-Par-'ties, Cocquets, Bills of Lading, Sea-Commiſſions, Letters of ſafe 'Conduct, Factories, Invoyces, Skippers Rolls, Inventories, and 'other Ship-papers; Alſo all Cauſes of Fraight, Mariner's Wages; 'Load-manage, Port-charges, Pilotage, Anchorage, and the like; 'Alſo all Cauſes of Maritime Contracts *indeed*, or *as it were* 'Contracts, whether upon or beyond the Seas; all Cauſes of Mo-'ney lent to Sea, or upon the Sea call'd, *Fœnus Nauticum*, *Pecu-'nia Trajectitia*, *Uſura Maritima*, *Bomary Money*, *the Groſs Ad-'venture*, and the like; All Cauſes of Pawning, Hypothecating, 'or Pledging of the Ship it ſelf, or any part thereof, or her La-'ding, or other things at Sea; All Cauſes of *jactus*, or caſting 'Goods overboard; and Contributions either for Redemption of 'Ship or Lading, in Caſe of Seizure by Enemies or Pirates, or in 'Caſe of Goods damnified, or disburdening of Ships, or other 'Chances, with Averidge; Alſo all Cauſes of Spoil and Depreda-'tions at Sea; Robberies and Piracies; Alſo all Cauſes of Naval 'Conſort-Ships, whether in War or Peace; Inſurance, Mandates, 'Procurations, Payments, Acceptilations, Diſcharges, Loans or 'Oppignorations, Emptions, Venditions, Conventions, taking or 'letting to Fraight, Exchanges, Partnerſhip, Factorage, Paſſage-'Money, and whatever is of Maritime Nature, either by way of 'Navigation upon the Seas, or of Negotiation at or beyond the 'Sea in the way of Marine Trade and Commerce; Alſo the Nau-'tical Right which Maritime Perſons have in Ships, their Appa-'rel, Tackle, Furniture, Lading, and all things pertaining to 'Navigation; Alſo all Cauſes of Out-readers, or Out-riggers, Fur-'niſhers, Hirers, Fraighters, Owners, and Part-owners of Ships, 'as ſuch; Alſo all Cauſes of privileged Ships or Veſſels in his Ma-'jeſty's Service, or his Letters of ſafe Conduct; Alſo all Cauſes

'of Shipwrack at Sea, Flotſon, Jetſon, Lagon, Waiffs, Deodands, 'Treaſure-trove and Fiſhes-royal; with the Lord Admiral's Shares, 'and the Finders reſpectively; alſo all Cauſes touching Mari- 'time Offences or Miſdemeanours, ſuch as cutting the Buoy-rope 'or Cable, Removal of an Anchor, whereby any Veſſel is moor'd, 'the breaking the Lord Admiral's Arreſts made either upon Per- 'ſon, Ship or Goods; breaking Arreſts on Ship for the King's Ser- 'vice, being puniſhable with Confiſcation, by the Ordinance made 'at *Grimsby* in the Time of *Rich.* I. Mariners abſenting themſelves 'from the King's Service after their being Impreſt, Impleading 'upon a Contract, or in a Maritime Cauſe elſewhere than in the 'Admiralty, contrary to the Ordinance made at *Haſtings* by *Ed- 'ward* I. and contrary to the Laws and Cuſtoms of the Admiral- 'ty of *England*; Foreſtalling of Corn, Fiſh, *&c.* on Ship-board, 'Regrating, and Exaction of Water-Officers; the appropriating 'the Benefit of Salt Water to private Uſe excluſively to others 'without his Majeſty's Licenſe; Kiddles, Wears, Blindſtakes, 'Water-mills and the like, to the Obſtruction of Navigation in 'great Rivers; falſe Weights or Meaſures on Ship-board; Con- 'cealings of Goods found about the Dead within the Admiral's 'Juriſdiction, or of Flotſons, Jetſons, Lagons, Waiffs, Deodands; '*Fiſhes Royal*, or other things wherein the King's Majeſty or 'his Lord Admiral have Intereſt; exceſſive Wages claim'd by 'Shipwrights, Mariners, *&c.* Maintainers, Abettors, Receivers, 'Concealers or Comforters of Pirates; tranſporting prohibited 'Goods without Licenſe; Draggers of Oiſters and Muſcles at un- 'ſeaſonable Times, *viz.* between *May-day* and *Holy-rood-day*; 'Deſtroyers of the Brood or young Fry of Fiſh; ſuch as claim 'Wreck to the Prejudice of the King or Lord Admiral; ſuch as 'unduly claim Privileges in a Port; Diſturbers of the Admiral's 'Officers in Execution of the Court-decrees; Water-Bailiffs and 'Searchers not doing their Duty; Corruption in any of the Ad- 'miral-Court Officers; Importers of unwholeſome Victuals to 'the Peoples Prejudice; Fraight of Strangers Veſſels contrary to 'the Law; Tranſporters of Priſoners or other prohibited Perſons, 'not having Letters of ſafe Conduct from the King, or his Lord 'Admiral; Caſters of Ballaſts into Ports or Harbours, to the Pre- 'judice thereof; unskilful Pilots, whereby Ship or Men periſh; 'unlawful Nets, or other prohibited Engines for Fiſh, diſobeying 'of Embargoes, or going to Sea contrary to the Prince his Com- 'mand, or againſt the Law; furniſhing the Ships of Enemies, or 'the Enemy with Ships; all Prejudice done to the Banks of Navi- 'gable Rivers, or to Docks, Wharfs, Keys, or any thing whereby

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'Shipping may be endangered, Navigation obſtructed, or Trade by 'Sea impeded; alſo Imbezlements of Ship Tackle or Furniture; 'all Subſtraction of Mariners Wages; all Defraudings of his 'Majeſty's Cuſtoms, or other Duties at Sea; alſo all Prejudices 'done to or by Paſſengers a Ship-board; and all Damages done 'by one Ship or Veſſel to another; alſo to go to Sea in tempeſtu-'ous Weather, to ſail in devious Places, or among Enemies, Pi-'rates, Rocks or other dangerous Places, being not neceſſitated 'thereto; all clandeſtine Attempts by making private Cork-holes 'in the Veſſel, or otherwiſe, with intent to deſtroy or endanger 'the Ship; alſo the ſhewing of falſe Lights by Night, either on 'Shore or in Fiſhing Veſſels, or the like, on purpoſe to entice 'Sailors to the Hazard of their Veſſels; all wilful or purpoſed 'entertaining of unskilful Maſters, Pilots or Mariners, or ſailing 'without a Pilot, or in Leaks and inſufficient Veſſels; alſo over-'burdening the Ship above her Birth-mark, and all ill Stowage of 'Goods a Ship-board; alſo all Importations of *Contraband* Goods, 'or Exportation of Goods to prohibited Ports; or the Places not 'deſign'd; together with very many other things relating to the 'State or Condition of Perſons Maritime, their Rights, their Duties, 'or their Defaults. Which may ſuffice for giving a Hint of Per-'ſons and Things properly belonging to the Juriſdiction of the 'Admiralty of *England*, beſides what might here be obſerv'd con-'cerning the Naval Military-Part, within the Cognizance of the 'aforeſaid Juriſdiction; as that Ships in the *Britiſh Seas*, not a-'maining at the firſt Summons of any of his Majeſty's Ships, may 'be aſſaulted and taken as Enemies; that no Prize ought to be 'carried from the Fleet, without the Admiral's Permiſſion; that 'all above the Hatches, (the Ships Tackle and Furniture except-'ed) ought upon ſeizure *Jure Belli* to belong to the Captors; 'That the Ships of Foreigners may be examin'd and ſearch'd in 'Time of War, and at other Times, if there be any juſt Cauſe 'of Suſpicion, and that their Cocquets, Paſs-ports, Charter-Par-'ties, Invoices, Bills of Lading, and all other Ship-papers may be 'peruſed in order, if there be Cauſe to bring them before the Ad-'miralty.'

But before I proceed to give any further Account of the Extent of this Juriſdiction, to give the Reader the exacter Notion of it, it will be neceſſary to ſay ſomething of the Writ, which in our Law is called a *Prohibition*, by which this Juriſdiction is ſome-times interrupted; and which without loſing any Time in a need-leſs Enquiry after the different Acceptations of the Word in other

Caſes, may be properly defined to be, *A Writ forbidding to hold Plea in any Matter or Cauſe ſuppoſed to be without the Juriſdiction and Cogniſance of the Court where the Suit depends.* Which is the Account given of it in the afore-mentioned Book, intituled, *A View of the Admiralty Juriſdiction:* Where 'tis likewiſe obſerv'd, That Sir *Thomas Ridley* calls it, *A Command iſſued out of ſome of the King's Higher Courts of Record, where Prohibitions are uſually granted in his Name, ſubſcribed by the Chief Judge or Juſtice, and ſeal'd with the Seal of the Court from whence the Prohibition comes. At the Suggeſtion of the Plaintiff, under Pretence of being griev'd by ſome Eccleſiaſtical or Marine Judge, in Non-admitting of ſome Cauſe, or doing ſome other Thing in Judicial Proceedings againſt his Right; ordering the aforeſaid Eccleſiaſtical and Marine Judge to deſiſt from taking any further Cogniſance in that Cauſe not belonging properly to his Juriſdiction.* But this Definition, however juſt it may be otherwiſe, cannot be ſaid to be comprehenſive enough; becauſe Prohibitions may be iſſued out to ſtop Proceedings in Courts that have neither Eccleſiaſtical nor Marine Juriſdiction, tho' indeed they are more uſeful in Eccleſiaſtical than in any other Courts. And thence probably it is that the Author of *the Terms of the Law* ſeems to confine Prohibitions to thoſe Courts, and ſays, *That a Prohibition is a Writ that lyeth where a Man is impleaded in a Spiritual Court in a Cauſe that does not concern Matrimony, Teſtament nor Tithes; which Writ being directed to the Party as well as to the Judge, or his Official, prohibits them from proceeding any further: But if it afterwards appears to the Judges Temporal, that the Matters do properly belong to the Spiritual Court, then the Party is to have a* Writ of Conſultation, *Authoriſing the Judges Spiritual to proceed in the firſt Plea:* To which may very pertinently be added that of the Statute of 2 *Ed.* 6. *Chap.* 13. by which it is provided, *That any Perſon ſuing for a Prohibition, ſhall make a Suggeſtion, and prove it by two Witneſſes: And in caſe ſuch Proof be not made in the Court where the Prohibition is granted, within ſix Months after the granting of the ſame; then the Party hindred by ſuch Prohibition, ſhall have a Writ of Conſultation, and recover double Coſts and Damages againſt that Party that ſued for the Prohibition.* And in the Definition given of the Prohibition by the Author of *The Terms of the Law,* there is not any mention made of Prohibitions againſt the Admiralty, but only againſt Spiritual Judges in Matters that have no relation to that Court. And indeed it does not ſeem very reaſonable to grant Prohibitions againſt that Court, if due Conſideration be had of the firſt Intent of awarding Prohibiti-

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ons, which certainly was for the Preſervation of the Royal Rights and Prerogatives of the Crown: For which I ſhall vouch the Teſtimony of that Learned Civilian, *D. Cowel*, who ſpeaking of Prohibitions, ſays, *That tho' they might have been of uſe to preſerve the Rights of the Crown, when the Eccleſiaſtical and Secular Juriſdiction acknowledged two ſeparate Heads: now that the King is own'd to be the Sovereign Head of the Church as well as of the Laity, they are become unneceſſary and grievous.* Now ſince it is acknowledg'd that the Juriſdiction of the Admiralty of *England* was ever inherent in the Crown of *England*, and that that Court is one of the Temporal Courts of our Sovereign Lady the Queen; and ſince it does likewiſe appear, that the primary Intent and Deſign of awarding Prohibitions was for preſerving the Prerogatives of the Crown, which were daily invaded and uſurp'd by the Pope and his Delegates and Deputies, as long as the *Romiſh Religion* had the upper Hand in *England*; now that the Cauſe ceaſes, the Effect ſhould likewiſe ceaſe. And that eſpecially with relation to the Admiralty, againſt which that Writ was not at firſt intended. And after all, admitting the Practice of awarding Prohibitions againſt the Admiralty to be legal (tho' it can hardly be allow'd to be reaſonable) as they are generally granted upon a Suggeſtion, That the Cauſe doth not properly belong to the Juriſdiction of that Court, it does not thence follow, that Prohibitions ought to be granted againſt the Admiralty in Caſes relating to the Sea. For allowing a Prohibition to be according to the Learned *Fitz. A Writ forbidding any Court, whether Eccleſiaſtical or Secular, to proceed in any Cauſe there depending upon Suggeſtion, that the Cognition thereof does not belong to the aforeſaid Court:* It muſt nevertheleſs be allow'd, that this does not in any manner affect ſuch Caſes as plainly appear to be Maritime, or have, Time out of Mind, belong'd to the Juriſdiction of the Admiralty, ſince unqueſtionably the Suggeſtion there mention'd, muſt in the Conſtruction of the Law, be ſuppoſed to be real. Now as to the different ſorts of Prohibitions, *Godolphin* gives this Account of them in his forenamed Treatiſe of the Admiral Juriſdiction, *p.* 76. and following, which being as conciſe and pertinent as any I have met with, I thought it very fit to be inſerted in this Place.

'Every Prohibition is either *Prohibitio Juris*, by the Law it 'ſelf, or *Prohibitio Hominis*, where the Miniſtry of a competent 'Judge is uſed, or *Prohibitio Facti*, of meer Fact, where it hath 'no ſufficient Ground or Foundation in the Law. The ſecond of 'theſe, *viz.* the Miniſtry of a competent Judge, is ſo eſſential,

'as

'as without which neither of the other can proceed. *Prohibitio Juris* is a very Prohibition in it ſelf, and therefore it is a Contempt to ſue againſt it. *Prohibitions of Law* are ſuch as are ſet down by any Law or Statute of this Land, whereby Eccleſiaſtical Courts are interdicted from dealing in the Matters in ſuch Statutes contained. Such are the Statutes of 2 *Edw.* 6. *cap.* 13. whereby Judges Eccleſiaſtical are forbidden to hold Plea of any Matter, Cauſe or Thing, being contrary or repugnant to or againſt the Effect, Intent or Meaning of the Statute of *Weſtminſt.* 2. *cap.* 3. the Statutes of *Articuli Cleri*, *Circumſpecte agatis*, *Silvæ Cæduæ*, viz. 43 *Edw.* 3. *cap.* 3. The Treatiſe *de Regia Prohibitione*, *Stat.* 1 *Edw.* 3. *cap.* 10. Such alſo is the Statute of 9 *Edw.* 2. *cap.* 2. There are alſo other Statutes declaring in what Caſes Prohibitions will not lie: Such are the Statutes of 9 *Edw.* 2. *cap.* 1, 4, 5. alſo 18 *Edw.* 3. *cap.* 5. and 50 *Edw.* 3. *cap.* 4. Prohibitions of *Fact*, are ſuch as having no ſolid Foundation (as the other) on the Laws and Statutes of this Kingdom, may yet *pro tempore* have ſome kind of Operation like *Prohibitio Juris*, becauſe therein alſo is *Prohibitio Hominis*, or the Miniſtry of the Judge or Superior Magiſtrate. Such Prohibitions of Fact (where they happen) may adminiſter more Matter for Lawyers to work on, than poſſibly the Merits of the Cauſe require; and have in former Times occaſion'd ſeveral Complaints by reaſon of the Perplexity of Law Suits, Uncertainties in Matters of Juriſdiction, Multiplicity of litigious Controverſies, Exceſs of Charges, Delays of Proceedings, Retardations of Juſtice, and the like. Hence it was, that Sir *T. Ridley* in his *View* of the Civil and Eccleſiaſtical Law, ſo long ſince on this ſubject, ſaid, *That the Right of the Supream Magiſtrate is not to be ſuppoſed by Imagination, but to be made plain by Demonſtration. And ſo by the Statute of* 18 Edw. 3. cap. 5. *it is provided, That no Prohibition ſhall iſſue, but where the King hath the Cognizance, and of Right ought to have, which is very obſervable: And alſo by the afore-mentioned Statute of* 2 Edw. 6. *which prohibits Prohibitions to be granted otherwiſe than upon ſight of the Libel, and other Circumſtances in the ſaid Statute expreſſed. By which it is intended, the Meaning of the Law-givers was not, That every idle Suggeſtion of every Attorney ſhould breed a Prohibition; but ſuch only ſhould be granted, as the Judge according to Law ſhould think worthy thereof, if there were Right to deſerve it.* Where the ſaid Sir *Thomas Ridley* goes on and ſays, *That as Emulation between the two Laws in the beginning brought in theſe multitude of Prohibitions, either againſt or beſide Law; So the Gain they brought to the Temporal Courts maintaineth*

† 'them,

'*them, which alſo* (they are his Words) *makes the Judges that* '*they ſeſs not Coſts and Damages in Caſes of Conſultation* (*altho'* '*the Statute preciſely requires their Aſſent and Aſſignment there-*'*in*) *becauſe they would not deter other Men from ſuing out of* '*Prohibitions, and purſuing the ſame.* Tho' this was the Obſer-' vation, and thoſe the very Words of Sir *Thomas Ridley*, upon 'this ſubject in his Time; yet we may not thence infer, that ſo it 'is alſo now in our Time, eſpecially now that Juſtice runs again 'in its proper Channel, and her Ballance equally poized; It was 'too true, that in late Years of unhappy Memory, the ſaid Words 'and Obſervation of that *Civilian* were too ſadly verified, which 'now no doubt will in ſome ſhort time (as is already in a good 'degree) be compleatly rectified.

'In order to a Prohibition, there is to precede ſuch a Suggeſtion 'as may be proved, not ſuch a Suggeſtion as is not capable of 'Proof; Improbable Suggeſtions lay no Foundation: Non-Enti-'ties are no Baſis for Exiſtencies: It hath been a Rule without 'Exception ever ſince the Creation, That *Ex nihilo nihil fit.* By 'ſuggeſting the *Place*, where a Contract is ſuppoſed to be made, 'at *Bourdeaux* in *France*, in *Iſlington* in the County of *Middleſex*, 'ſeems to imply as if the alledging the Place, (*viz.* to be within 'the Body of ſome County within the Realm) were eſſential for 'the entituling of that Juriſdiction, where ſuch Suggeſtion is 'made, to a cognizance of the Cauſe grounded upon that Sugge-'ſtion, ſo that the *Place* ſeems to be of ſuch Juriſdiction, is 'Weight, as not capable of being tranſlocated by the higheſt 'ſtrength of Imagination, which may preſent ſtrange things in 'Apparitions, but cannot poſſibly enervate the Energy of Truths 'and Realities: And thence poſſibly it is, that for Prevention of 'improbable Surmizes, as a Suggeſtion may be *quaſi Cauſa ſine qua* '*non* of a *Prohibition*; ſo the ſaid Statute of 2 *Edw.* 6. *cap.* 13. 'provides, That Probability by Witneſſes (which cannot be with-'out Verity) be a due Requiſite of Suggeſtions. The Lord *Coke* 'upon this Subject of ſuggeſting and ſurmiſing, *viz.* of Places be-'yond Sea to be as within the Body of ſome County within this 'Realm, doth acknowledge, That there is Variety of Opinions in 'the very Books of the Common Law upon this Point. This 'kind of ſuggeſting and ſurmizing, did in the late Years of fatal 'Memory, much impede the Judicial Proceedings of the Admi-'ralty, when it was no rare thing to meet with a Suggeſtion of a 'Contract to have been made, or other thing done upon the Land 'in ſome certain Place within the Body of ſome County, that re-'ally and in Truth was made or done upon or beyond the Seas,

'and

'and farther, possibly, than the Suggester ever saw in a *Map*. The 'Civilians say, there are certain Cases wherein *Prohibitio vim suam* 'non exercet, whereof one is, *Quando aliquid prohibetur sine Causa*; 'and the Law of this Realm allows another, and that is, *Quando* 'Consultatio conceditur.

'Prohibitions in the Law there are of others kinds, tho' not so 'pertinent to the Purpose in Hand; such is the Writ *Indicavit*, as 'in matter of Tithes; this lieth also for the Patron, where the 'Incumbent is impleaded for the Advowson or Right of Patro-'nage in a Spiritual Court; though it lieth not till the Libel be 'brought to be viewed in *Chancery*, *Et Lis Contestata*; and it li-'eth only before Sentence is given in the Ecclesiastical Court, be-'ing afterwards void. Lastly, a Prohibition ceaseth and loseth its 'Virtue after a *Consultation* is granted, as appears by the Statute 'of 24 *Edw.* 1. which declares in what Cases a *Consultation* is grant-'able, which again is afterwards more full in the Statute of '2 *Edw.*6. *cap.*13. whereby it is enacted, *That a* Consultation *shall* 'be granted for Default of proving the Suggestion, and double Costs 'and Damages (as aforesaid) awarded to the Party hindred by such 'Prohibition, against him that so pursued the same. And where a 'Consultation is once truly granted, the Judge formerly prohibi-'ted, shall, according to the Statute of 50 *Edw.* 3. *cap.*4. proceed 'in the Cause, notwithstanding any other Prohibition thereupon, 'provided the Matter in the Libel be not alter'd.'

But because Prohibitions are seldom granted without the Inter-vening of what in Law is called a *Fiction*, it will be convenient for giving the Reader a perfect Notion of it; to insert what the afore-said *Godolphin* says about it in the following Words.

'A *Fiction* in the Eye of the Law, and such whose Practice may 'be warranted by Law, is *Legis adversus veritatem in re possibili* 'ex justa causa dispositio. So that it is *Legis non Hominis dispo-'sitio*, it must be a *Fiction* framed according to the Rules of Law, 'not whatever is imaginable in the Conceptions of Man. This 'Word [*Dispositio*] is sometime taken for a *Quality* of the Mind, 'or imperfect Habit, that is, an Inclination or Affection. But in 'this Place it signifies an Act proceeding from good Authority of 'Law; for it must be *ex justa Causa*; which Word [*Just*] hath 'divers Acceptations or Significations in the Law; as, sometimes 'it is opposed to that which is wicked or contrary to *Justice* and '*Equity*: Whence it follows, that the *Suggestor* may not frame 'or model a *Fiction* opposite thereto; Sometimes the Word [*Just*] 'is in the Law taken for *Full* or *Perfect*; and hereby all Defects 'and Imperfections for want of any legal Requisites in the Sug-

'gesters

'geſters Notions to the fabricating of a *Fiction*, are excluded; ſuch 'are the Defects or Imperfections in reſpect either of *Equity* or 'Poſſibility: For as the Suggeſtions are to ariſe *ex juſta cauſa*, ſo 'they are to center *in re poſſibili*. But to prevent Miſtakes, let 'it not be hence inferred, as if it were here imply'd, that all '*Surmizes* and *Suggeſtions* at Law in order to remove or tranſplea 'a Cauſe from one Juriſdiction to another, were ſuch *Fictions* as 'fall not within the Compaſs of the ſaid Definition of a *Legal* '*Fiction*: If any ſuch inconſequent Conſtruction be made of the 'Premiſes, or ſhall be made of what follows, it is no Man's Er-'ror but the Reader's; for tho' all Fictions, whether legal or il-'legal, may be Surmizes, Suggeſtions or Suppoſitions; yet all 'Surmizes or Suggeſtions are not illegal Fictions; and many of 'the Suggeſtions uſed in the Practick Part of the Law for the end 'aforeſaid, are both true, equitable and poſſible, and conſequently 'probable, and ſo of good and neceſſary uſe in Practice, according 'to the Law in the Statute of Prohibitions in that behalf provided; 'and this not by way of Digreſſion, but *ad majorem & neceſſariam* '*Cauteiam*, to prevent all Miſ-apprehenſions.

'The aforeſaid Definition of a *Fiction* legal, not finding gene-'ral Entertainment among the DD. it may be free to incline with 'the more received Opinion to *Bartol*'s Definition thereof; whoſe 'Words are theſe, viz. *Fictio, eſt in re certa, ejus quod eſt poſſibile* '*adverſus veritatem, pro veritate a jure facta aſſumptio.* A Fi-'ction is an Aſſumption of Law upon an Untruth for a Truth, 'againſt the Truth, in ſome thing poſſible to be done, but not 'done. So that Surmizes and Suggeſtions in Judicial Practice that 'are *true*, are not (as was aforeſaid) *Fictions*. In this Definition 'it is ſaid to be *in re certa*, to difference it from *Preſumption*, 'which ever fixes upon ſomething that is *dubious*, yet carries ſo 'much of Truth with it, as without better Evidence is not coun-'terpoiz'd; but *Fictio fit ſuper Certo, ſuper Falſo & Certo fingi-'tur*; *Super Vero & Incerto preſumitur*. Likewiſe in this Defi-'nition it is ſaid to be *Ejus quod eſt poſſibile*, becauſe *Super eo* '*quod eſt impoſſibile non poteſt fingi*. Of *Impoſſibilities* there can 'be no Fiction according to Law whereon to ground any Sug-'geſtion. Reaſon it ſelf proves this; for Art (as aforeſaid) ever 'imitates Nature; and what is *impoſſible* according to Nature, is 'impoſſible according to *Art*: And tho' Art in ſome ſenſe may be 'ſaid to perfect *Nature*, yet it may not contradict Nature in 'any ſenſe. A *Fiction* in *Law* ever imitates a *Poſſibility* in *Na-'ture*. Again, it is ſaid to be *adverſus veritatem*, becauſe if it 'were really true, it would ceaſe to be a Fiction, yet withal it is

'ſaid to be *pro veritate*, an Aſſumption of Law upon an Untruth 'for a Truth, becauſe it hath the Effect of Law, being thus qua-'lified, as fully as if it were an Aſſumption upon a Truth. Laſtly, 'it is ſaid to be *à jure facta Aſſumptio*, to exclude all illegal Un-'truths, which are not of *Law*, but of *Man*, and therefore have 'not the deſigned Effect in Operation of Law.

'The Premiſes conſidered, it is moſt evident, That on every '*Fiction* according to Law, attend two ſuch Eſſential Requiſites, 'that if either of them be wanting, it ceaſes to be a *Legal Fiction*; 'the one is *Equity*, the other is *Poſſibility*: Theſe are the *Duo Ne-'ceſſaria* to every *Legal Fiction*; and ſuch Fictions thus qualified, 'are introduc'd by the Civil Law, wherein among many others, 'there are eſpecially two that may be ſaid to be the Capital or 'more Principal *Fictions* in the *Law*; the one whereof is *in Lege 'Cornelia*; the other *in Jure Poſtliminii*. A Fiction *Legis Cor-'neliæ* takes Place when a Captive *intra præſidia hoſtium* dies 'under ſuch Captivity: For if ſo, then ſuch Captive by that Law, 'if he made a Will before ſuch his being taken Captive, ſhall, 'in favour of ſuch Will, and for the upholding of the ſame, be '*feigned* to be dead *in puncto temporis*, immediately before ſuch his 'being taken Captive: And ſo by that legal Fiction of Death, his 'Will is firm and valid as if he had really died without ever being 'taken by the Enemy. That *de Jure Poſtliminii* is, whereby for 'the Preſervation of a Man's Right of Property, the Law doth '*feign* him that is return'd out of Captivity, to be and to have been 'as if he never had been Captive, or at all abſent from that Place 'of his Freedom and Privilege, whereof he was before ſuch his 'Capture, whereby he is redintegrated into his priſtine State and 'Condition. As it is thus as to *Perſons*, ſo alſo is it as to *Things*, 'ſuch only excepted as by Law are exempted from the Privilege of '*Poſtliminium*.

'There are divers other *Fictions* in the Law, tho' of leſs weight, 'which have not any Dependance at all on the former, yet not 'one of them without *Equity* and *Poſſibility*. Thus he that is in 'contempt for Non-appearance in Court upon due Summons, is 'by Law *feigned* to be preſent, that ſo neither the Law might be 'rendred eluſory by his Abſence, nor himſelf get any Advantage 'by his own Laches, nor the adverſe Party receive Prejudice by 'the other's Contempt: So on the other ſide, he that is preſent in 'Court, but doth there lurk and hide himſelf, *vel latitare inter 'columnas*, is by the Law *feigned* to be abſent. Alſo he that is '*in Utero*, and as yet unborn, is by the Law *quoad ſuum commo-'dum* feigned to be born, leſt otherwiſe he ſhould be left without

'Remedy,

'Remedy, as to a Child's Portion. Likewiſe ſuch as enter mutual Contracts of Partnerſhip, tho' themſelves may not therein create Fictions other than the Law allows; yet in Matters of Society and Partnerſhip, the *Lex Aquiliana* doth *feign* a mutual Stipulation or Hypothecation in ſuch Conſortſhip, which the Law ſtiles *Stipulatio Aquiliana*, and in ſuch Caſes, *Socius Socio tenetur Lege Aquiliano*. And in ſuch Caſes of Partnerſhip for the Acquiſition of a *Dominion* and Property in all the Goods in Partnerſhip, without any actual Delivery, the Law doth tacitly feign ſuch a Delivery, albeit it never ſpecially intervened. Likewiſe the Law feigns the Perſon of another, that ſo *Nephews* and *Nieces* may ſucceed together with their *Uncles* and *Aunts* in their *Grandfathers* and *Grandmothers* Goods and Chattels, for ſo much thereof as ſhould have come to their *Parents* reſpectively, in caſe they had been alive at the Time of their ſaid *Grandparents* Deceaſe. In like manner he that is dead, may by Law be *feigned* to be alive to ſeveral Conſtructions and Operations of Law, if others his Equals in Age be then alive, or in caſe his being really alive at ſuch Time of *feigning* him to be alive, doth not exceed the natural Age of Man. Many more Inſtances of *Legal Fictions* might here be added, but theſe may ſuffice for Proof, that tho' the *Law* allows of *Fictions*, yet never but where there is *juſta cauſa*, with *Equity* and *Poſſibility*, diſowning all others as *Monſtrous Fictions*, that are propagated meerly of the Froth of the Brain: For the *Law* (as aforeſaid) ever reſembles and imitates *Nature*; and therefore if any Man will enter the Liſts with *Lucian*, or ſtrain his Imagination to forge Rarities beyond his Dialogues, and *feign* a Battle of *Elephants* to be fought on a Cobweb in the Air, or freſh Water-Spring to riſe out of the Whale's Belly, or a Mine of Gold fifty Fathom under Ground in the middle Region of the Air, or the like, he may expect no Protection from the Law for ſuch irregular Notions.

'A *Legal Fiction* under the aforeſaid Qualifications, is threefold; either *Inductiva*, or *Privativa*, or *Tranſlativa & Extenſiva*. *A Fiction Inductive* is, when the Law *feigns* that to be, which indeed is not: a *Fiction Privative* is, when the Law *feigns* that not to be which indeed is; and a *Fiction Tranſlative* or *Extenſive* is, when the Law doth *feign* a thing to be done in one manner, which in Truth is done in another. The firſt of theſe, or the *Inductive Fiction*, is an Aſſumption of Law in a thing *certain* and *poſſible*, upon a Non-exiſtency for an Exiſtency; the ſecond, or the *Privative Fiction*, is alike definable, only the Words inverted; and the third, or *Tranſlative Fiction*, is only

'an Aſſumption of Law more upon the *Modus* than the thing it 'ſelf, ſo called becauſe it is mainly converſant in one of theſe 'four Varieties: As either when the Law by a *Fiction* transfers or 'tranſlates ſome Act or Thing, either from one *Place* to another, 'or from one *Perſon* to another, or from one *Thing* to another, or 'from one *Time* to another: But which ſoever of theſe the *Fiction* 'be, it muſt ſtill keep within the due Limits and Bounds of *Equi-* 'ty and *Poſſibility*. Whatever the *Fiction* be, it may be reduced 'to one of theſe three Heads, either *Inductiva*, *Privativa* or *Tran-* 'ſlativa; and neither of theſe but muſt *quadrate* with *Bartol*'s 'ſaid Definition, or the Law rejects it as ſpurious and illegiti- 'mate.

'For the yet clearer Apprehenſion of the Premiſes, it may be 'no Digreſſion to inſert a Word by way of Caution to the imper- 'fect Notioniſt, that he would not hence infer as if the Law did 'feign *Impoſſibilities*, becauſe it ſuppoſes the *living* to be *dead*, and 'the *dead* to be *alive*, the *abſent* to be *preſent*, and the *preſent* 'to be *abſent*; and the like. For altho' they would indeed be '*Impoſſibilities*, if only conſider'd ſimply in an Identity of *Fact* and '*Time*, of *Perſon* and of *Place*, without their Right and due Di- 'verſification; yet they are not *Impoſſibilities*, being rightly accor- 'ding to the Law of Fictions diſtinguiſh'd in reſpect of Fact, Time, 'Perſon and Place, together with ſuch Tranſactions, Tranſlocati- 'ons, Tranſtemporations and Tranſperſonalities, as according to 'Rules of Law are requiſite to every Fiction that enures to any ef- 'fects in Law; for that which may ſeem *deceptio intellectus*, and 'by Miſapprehenſion poſſibly be taken for an *Impoſſibility* in the pre- 'cedent Inſtances of a legal Fiction, is in truth nothing but that De- 'fect or Abſence of Verity in the Perſon, Act, Thing, Manner, Time 'or Place feigned: Indeed to look for *Truth* in a *Fiction*, is to expect 'an *Impoſſibility* with as much Vanity as ſome Men do for *Reve-* 'lations: If it were poſſible that there could be the leaſt *Verity* in 'the thing ſuppoſed, it would immediately ceaſe to be a *Fiction*. 'Legal *Fictions* may be aptly ſtiled, *The juſt Policies of Law, to* 'attain unto the End and Effect of Law by Remedies extraordinary, 'only where the ordinary Means do fail. This therefore is no 'Warrant to fly to *Fictions*, tho' *legal*, much leſs to others, as 'Remedies *extraordinary*, when the *ordinary* Means by Law pro- 'vided may be uſed.

'This Point of *Fictions* having now been put to the Touch-ſtone 'of the Law, and impartially weighed in the Ballance thereof, it 'plainly appears what kind of Fictions they are, that are legally

'qua-

' qualified to take Place, in the Judicial Proceedings of the *Civil* ' *Law* in Foreign Nations, as well as in this Kingdom.

But now to reſume the Diſcourſe of the Extent of the Juriſdiction of the Court of Admiralty in *England*. That the Cognizance of all Cauſes and Actions ariſing by Contracts made, and other things done and tranſacted upon the Sea, does and ought of Right to belong and appertain to the Juriſdiction of the Admiralty, is a thing in it ſelf ſo palpable, that it cannot admit of any Diſpute; tho' indeed the Court of Admiralty has formerly complain'd, (and not without Reaſon) *That a Suit being commenc'd in that Court by Reaſon of ſome Contract made, or other Matter done and tranſacted* (ſuper altum Mare) *upon the High Sea, or Ocean; the Defendant upon a Fiction, Suggeſtion or Surmize, that ſuch Contract or Matter was done and tranſacted upon the Land within the Realm, might obtain a Prohibition, and be try'd at Common Law; by which the Prerogative and Juriſdiction of the Court of Admiralty is eluded, only by Virtue of a Suppoſition, without any other Warrant or Foundation in Law, but that of a Legal Fiction.* Which Complaint having been occaſion'd by *Suſan*'s Caſe againſt *Turner* in *Noy*'s Reports, the Lord *Coke* aſſerted, ' *That by the Laws of* ' *the Realm the Court of Admiralty hath no Cognizance, Power or* ' *Juriſdiction of any Matter or Contract, Plea or Quereles within* ' *any County of the Realm, either upon Land or Water: But every* ' *ſuch Contract, Plea or Querele, and all other things riſing within any* ' *County either upon the Land or the Water, ought to be tryed and* ' *determined by the Laws of the Land, and not before or by the Lord* ' *Admiral or his Lieutenant in any Manner: So as it is not material,* ' *whether the Place be upon the Water,* infra fluxum & refluxum ' aquæ, *but whether it be upon any Water within any County. Where-* ' *fore we acknowledge, that of Contracts, Pleas and Quereles made* ' *upon the Sea or any part thereof, which is not within any County* ' *(from whence no Tryal can be had there by twelve Men) the Lord* ' *Admiral hath, and ought to have Juriſdiction.*

In which that Judge ſeems very plainly to acknowledge that the Cognizance of all Contracts and other Deeds, *&c.* made *ſuper altum Mare*, does and ought really to belong to the Juriſdiction of the Court of Admiralty. Which is conſonant to what *Brownlow* reports, Rep. Part 1. *That if a Bond be dated* ſuper altum Mare, *it muſt be ſued in the Admiral-Court, and in no other:* With which the famous *Littleton* does likewiſe agree, *L.* 3. C. 7. §. 440. where he plainly aſſerts, *That things done out of the Realm cannot be tryed within the ſame by a Jury of twelve Men.* However, the aforeſaid *Brownlow* in *Weſton*'s Caſe reports, *That a Merchant*

Ship

Ship having been taken by the Spaniards, *then in War with* England, *and a Month after retaken by an* Engliſh *Ship*; *the Owner ſuing for the Ship in the Court of Admiralty, a Prohibition was granted only becauſe the Ship was gain'd by Battle of an Enemy.* Which muſt be allow'd to be very odd, ſince in all Probability, the Taking and Re-taking of the Ship, upon which the Plea is grounded, did happen *ſuper altum Mare.* But however, in a Caſe much of the ſame Nature, as to the Merits of the Cauſe *ſuper altum Mare*, it was quite otherwiſe determin'd, *Trin.* 1 *Car. in B. R. Grand Abridgment of the Law:* The Caſe was this; A *Dunkirker* having taken a *French* Veſſel, *ſuper altum Mare*, and ſold the Ship and Lading at *Weymouth*, before he had brought the ſame *infra Præſidia Regis Hiſpaniæ*, or within the Limits or Juriſdiction of the Dominions of the King of *Spain*, to whom *Dunkirk* did then belong: The *Frenchman* ſued the Vendee in the Court of Admiralty, deſiring that Reſtitution might be made, foraſmuch as the Sovereigns of both Parties were then in Amity with the King of *England*, and that he had never been conducted *infra Præſidia Regis Hiſpaniæ*, &c. and the Defendant praying a Prohibition, it was unanimouſly refuſed by the Juſtices, who were of Opinion, *That it being the Practice and Law of the Court of Admiralty, That a Ship being taken by Letters of Marque or Repriſal, and not brought* infra Præſidia *of the Prince by whoſe Subjects it was taken, it is no lawful Prize, and the Property is not alter'd; and no Prohibition ought to be granted for removing the Cognizance of ſuch Cauſes from the Court of Admiralty.* Which Deciſion is not only conformable to the Paſſages in *Coke* and *Littleton* already mention'd; but likewiſe to the Opinions of a great many others of our moſt Eminent Lawyers, and particularly Sir *George Crook*, who ſays in his Reſolves upon the Caſes of the Admiral Juriſdiction, *That if a Suit be commenced in the Court of Admiralty upon Things done upon the Sea, no Prohibition is to be granted.* By all which, beſides an Infinity of other Inſtancesthat might be brought, 'tis palpable, That the Right of Cognizance and Juriſdiction in all Bargains, Deeds and Contracts made upon the Sea, is inherent in the Court of Admiralty.

Now as to Contracts, Deeds and Bargains made beyond the Sea, 'tis no leſs evident that the Cognizance thereof does properly belong to the Juriſdiction of the Admiralty-Court; but becauſe its Prerogative in this Caſe, as much as in any other, has been infring'd, and its Power of deciding and determining of ſuch Cauſes ſeemingly contradicted by ſome very eminent Lawyers; in order

order to ſtate the Queſtion fairly, and bring things to a true Light, I ſhall firſt recite the principal Objections that ſeem to have been made againſt the Juriſdiction of the Court of Admiralty in ſuch Caſes, and then I ſhall endeavour to ſolve them, and to prove that the Cognizance of all ſuch Caſes does, and ought really to belong to that Juriſdiction.

It is objected in the firſt place by the Enemies of the Admiralty-Juriſdiction, *That the Cognizance of Tranſmarine Contracts and Bargains does more properly belong to the Lord High Conſtable and Earl-Marſhal of* England, *than to the Admiralty.*

It is alledged ſecondly by thoſe that oppoſe the Juriſdiction of the Admiralty in Foreign Cauſes, and amongſt others by the Lord *Coke* in his Inſtitutions, *Part* 4. *lib.* 22. *That if any Indenture, Bond, or other Specialty, or any Contract be made beyond the Sea, for the doing of any Act or Payment of Money within the Realm or otherwiſe, wherein the Common Law can adminiſter Juſtice, the Cognizance thereof does neither belong to the Lord High Admiral, Lord High Conſtable, nor Ear-Marſhal of* England, *but to the Common Law only.*

Thirdly, The Lord *Hobart* goes farther in *Bridgman*'s Caſe, to be found in his Reports, where he ſays, *That it has often been reſolv'd, That if any Obligation were made at Sea, yet it cou'd not be ſued in the Admiralty-Court, becauſe it is an Obligation that takes its Courſe, and binds according to the Common Law.* So that at this Rate truly they wou'd ſcarce allow the Admiralty any Juriſdiction at all; ſince they ſeem to aſſign the Cognizance of Obligations made upon the Sea to the Common Law, becauſe they are binding, and have their Courſe at Land, and make likewiſe the Contracts and other Deeds tranſacted beyond the Sea, cognoſcible at Common Law in ſome Caſes, and refer them in others to the Juriſdiction of the Lord High Conſtable or Earl-Marſhal of *England.* All which does indeed look a little odd at firſt View; but with ſome ſmall Attention and Deliberation, it may eaſily be explain'd, and all the three Objections anſwer'd with this eaſie Diſtinction, *viz. That indeed the Cognizance of Contracts, Deeds and Obligations made upon or beyond the Sea, and yet not for or by reaſon of any Marine Affair or Matter, may be removed from the Admiralty to a more proper Court: But all Matters and Affairs relating to Commerce and Navigation, do really and only belong to the Juriſdiction of the Admiralty, and ought not, under any Pretence whatſoever, to be removed from it.*

And

And that this is the genuine Senſe and Meaning of all the aforeſaid Paſſages out of our Law-Books, is plain beyond all Contradiction by the following Reaſons.

Firſt, The very Nature of theſe two great Offices of Lord High Conſtable and Earl Marſhal of *England* makes it apparent, that it can only be the Cognizance of Deeds, and Affairs of Arms, and War and Honour, tranſacted in Foreign Countries, that can belong to them; ſince they are only proper Judges of ſuch Affairs at home: And beſides, if by Contracts, *&c.* it was there indefinitely meant any ſort of Contracts; it would neceſſarily follow, that Charter-Parties, Bills of Lading, Cocquets, Invoyces, Marine Partnerſhips, and all other ſuch Deeds and Contracts ſhou'd belong to them; than which nothing can be imagined more ridiculous and abſurd.

Secondly, 'Tis highly reaſonable to ſuppoſe, that by the Deeds and Contracts ſpoken of, and of which the Cognizance ſeems to be by thoſe Deciſions remov'd from the Admiralty, and annex'd to the Courts of Common Law, is only meant ſuch Deeds and Contracts, *&c.* as are made for doing ſome Acts within the Realm, wherein the Common Law can adminiſter Juſtice, and afford the ordinary Remedy; and ſuch Obligations as have their Courſe and Effect, and are binding according to the Common Law; ſuch as an Obligation made at Sea for Security of a Debt growing before at Land; which cannot indeed be ſued in the Admiralty, becauſe it is not for a Marine Cauſe. Tho' in effect, this is not conſonant with another Paſſage of the aforeſaid Sir *George Crook*, who in his above-mention'd Reſolutions upon the Caſes of Admiral Juriſdiction, ſeems to be of another Opinion, and to aſſign the Cognizance of all Cauſes ariſing of Contracts made *ſuper altum Mare*, or *ultra Mare*, to the Cognizance of the Admiralty only, and ſays, *That if a Suit be commenc'd in the Court of Admiralty, ariſing of any Contract made, or thing done beyond or upon the Seas, no Prohibition ought to be granted or awarded.* Where Reſpect ſeems principally to be had to the Place where the Contract is made, without any regard to the Nature of it. And indeed there are divers things which do properly belong to the Juriſdiction of the Admiralty-Court only, wherever they be made, ſuch as Charter-Parties, Bills of Lading, *&c.* and other Deeds wherein the Juriſdiction of the Admiralty admits of ſome Limitation, with regard to the Place where they are made, upon or beyond the Sea, *&c.* And perſonal Actions may ſometimes be or not be of Admiral-Cognizance, according as they are here or there local, and ſometimes according to their Nature, there being ſome Things that are of themſelves ſubject to the Admiral-Juriſdiction, and others that

are

are only ſo by the intervening of ſome Accident by which the Juriſdiction is chang'd. And were it otherwiſe, it would be no eaſy matter to find any one Matter abſolutely of an Admiral Cognizance, ſince moſt Maritime Deeds and Contracts, whether they be made on this ſide, upon, or beyond the Seas, are generally to take effect, and be fulfill'd at Land; and a thing altogether *Marine* in the Cauſe, may be *Terrene* in the Effect: For even Bills of Lading, which are ſo properly and inſeparably inherent in the Juriſdiction of the Admiralty, take effect at Land, as well as Contracts for Fraight and Mariners Wages, which are frequently made beyond or upon the Sea; and which nevertheleſs, are indiſputably within the Juriſdiction of the Admiralty. And beyond all Contradiction, when a Contract is really made at Sea, or without the four Seas, concerning Maritime Affairs, tho' in order to ſomething to be afterwards done and perform'd, in whole or in part, upon the Land, according to the immemorial Practice and Cuſtom of the Admiralty, it is properly within its Juriſdiction, excluſive of all other Courts and Judicatures whatſoever: Nor ought the Cognizance thereof to be remov'd by a Prohibition grounded upon any legal Fiction, Suggeſtion or Surmize.

However, the Diverſity of the Opinions of our Lawyers in this Point, is ſuch as affords us ſufficient Ground to wiſh, that there was ſome more abſolute, clear and poſitive Statute for the Regulation of the Affairs of Navigation.

It has already been obſerv'd, that the Renowned *Littleton*, *l.* 3. *c.* 7. *Sect.* 440. does plainly aſſert, *That a thing done out of the Realm, may not be try'd within the Realm by the Oath of twelve Men (or by a Jury of that number.)* And yet the Lord *Coke* in his Inſtitutions, *l.* 3. *c.* 7. *Sect.* 440. poſitively ſays, *That an Obligation made beyond the Seas, may be ſued in what place in* England *the Plaintiff pleaſes; ſo that tho' it bears Date at* Bourdeaux *in* France, *it may be alledg'd to have been made in* quodam loco vocat' Bourdeaux *in* France, *in* Iſlington *in the County of* Middleſex, and there it ſhall be try'd, *&c.*

Now if it be admitted, as I humbly preſume it may, That the Words of *Littleton* (*out of the Realm*) do import the ſame thing as theſe of the Lord *Coke*, (*beyond the Seas*;) I don't know any other way of reconciling theſe two different Opinions, but that of ſuppoſing the one to be meant of Marine, and the other of Terrene Affairs; for otherwiſe they are flat and palpable Contradictions, being two Poſitions ſo directly oppoſite to one another, that one of them muſt certainly be falſe; except this Diſtinction be admitted; as indeed I don't ſee any Reaſon why it ſhould not:

For certainly however far the Opinions of our Lawyers may be different, as to the Extent of the Power of the Admiral Juriſdiction in ſome Points, it is not reaſonable to imagine, that any of the learned Authors here quoted, cou'd have ſo groſly miſtaken the very Nature of it: For tho' upon the whole Matter it is to be acknowledg'd, that that Juriſdiction is very unaccountably ſtraitned and interrupted by the Cuſtom of awarding Prohibitions upon frivolous Pretences, 'tis nevertheleſs certain, that the Cognizance of all Cauſes really Maritime in themſelves, does not properly belong to any other Juriſdiction but that of the Admiralty. And for preventing Uncertainties in Point of Juriſdiction, it was ſaid in the Caſe of the *Spaniſh* Ambaſſador, *Don Diego Serviento de Acuna* againſt *Jolliff* and *Tucker*——*That when the Caſe is laid at Land, no Man can by a new found Form of Suit, draw it* ad aliud examen, *but muſt ſubmit his Form to the Law, and not è contra.* Now it may, I think, be very rationally inferr'd, that if the Caſe be laid at Sea, or in the Maritime Court, it ought not to be mov'd from that to the Common Law.

However, a Prohibition is ſometimes awarded in ſuch Caſes, and ſo it was in that remarkable Caſe of *Palmer* againſt *Pope* in *Hobard*'s Reports, which was thus: 'Pope *agreed with* Palmer, 'ſuper altum Mare, *to tranſport him certain Sugars. This Agree-* 'ment was afterwards put in Writing in the Port of Gado, on the 'Coaſt of Barbary: *The Sugars happen'd to be ſpoil'd at Sea by Salt* 'Water; *for which* Palmer *ſues* Pope *in the Admiralty; for that* 'the Original Contract and the Breach alſo were both ſuper altum 'Mare: *yet upon a Suggeſtion that the Charter-party was made in* 'the Port of Gado, *upon the Continent of* Barbary, *it was reſolv'd* 'that a Prohibition lay, becauſe the Original Contract, tho' it were 'made at Sea, yet was changed when it was put into Writing and 'ſealed, which being at Land, changed the Juriſdiction as to that 'Point.' So that by this Reſolution it appears, that Prohibitions have been ſometimes granted for removing from the Admiralty the Cognizance even of Contracts made *ſuper altum Mare*, or on the deep or main Sea; tho' in the afore-mention'd Caſe of *Suſan* againſt *Turner*, where 'tis ſaid, *That upon a Suggeſtion that a Thing ſuppos'd to be done upon the deep Sea, was done upon the Land, a Prohibition might be awarded*; 'tis conditionally ſtated, *viz. That the Iſſue of the Cauſe ſhall depend upon the proving of the real Truth of that Allegation*; the Court being firſt to proceed according to the Allegations, and then according to the Proof. Beſides which, 'tis to be obſerv'd, that 'tis there ſaid, *That after Sentence paſs'd, no Prohibition at all is to be granted.* 'Tis true indeed,

indeed, that the Principal Argument in this Caſe was, That the Original Contract which was only Verbal, was chang'd by the Intervention of a Second, which was regularly reduc'd into Writing, and Sign'd and Seal'd according to the due Forms of Law. By Virtue of which ſecond written Contract, it was alledg'd, That the Juriſdiction was chang'd: Tho' indeed that ſeems to be but a feeble Argument, ſince according to the Cuſtom of Merchants, and to the Practice of all other Trading Nations, Bargains and Agreements made among Merchants and Mariners, and all Trading and Sea-faring People, which ought to be only underſtood to be *ſecundum Æquum & Bonum*, and Contracts *bonæ Fidei*, are obligatory *ultro citroque*, without any Seal or other ſuch Formality; and even without being reduc'd into Writing. And beſides that, this Conſideration alone, I think, is ſufficient to convince the World of the Neceſſity of leaving the Cognizance of all Maritime Affairs to the Court of Admiralty, *viz.* That theſe Affairs being of a different Nature from thoſe that are naturally cognizable in the Courts of Common Law, the Judges of the Admiralty, who ought to be Perſons of known Capacity and Experience in things of that Nature, and perfectly well acquainted with the Laws and Cuſtoms of the Sea, and of Merchants whether Foreign or Domeſtick, are certainly abler to decide ſuch Controverſies, than thoſe of the Common Law, who are generally Strangers to all ſuch Matters, of which many of our moſt learned and judicious Judges have ſeem'd to be ſufficiently ſenſible upon ſeveral Occaſions, of which I ſhall diſcourſe more largely in another Volume which will appear ſoon after this; and in which I intend to be at ſome Pains to repreſent to the Nation the Inconveniency with which our way of managing theſe Affairs is attended, and the Neceſſity of following the Example of other Trading Countries where Courts of Merchants, and Perſons well acquainted with Mercantile Affairs, have been eſtabliſh'd for determining the Controverſies ariſing amongſt People of that Profeſſion; and with due Submiſſion ſhall preſume here to ſay, That *the Juriſdiction of the Admiralty ought naturally to ariſe from the Nature of the Cauſe, and not from the Place where any Bargain or Contract is made; ſince it cannot be deny'd, but things may be, and daily are tranſacted at Land, which have only Regard to Maritime Affairs; and things may alſo happen to be tranſacted at Sea, which may properly belong to the Cognizance of another Court.* And to conclude this Part of my Remarks concerning that Court, I ſhall make uſe of the ſame Words, by which the Lord *Coke* lamented the Uncertainty of that Juriſdiction, and cry out with him, *Miſera eſt Ser-*

vitus, ubi jus eſt vagum aut incognitum: That 'tis an inſupportable Grievance to be plagu'd with unknown and uncertain Juriſdictions.

Now as to the Power of the Court of Admiralty in making Judicial Recognizances and Stipulations for Appearance and Performance of the Acts, Orders, Judgments and Decrees of the Court of Admiralty; tho' that does ſeem to be inherent in the very Nature of all Courts of Judicature, there have not been wanting Perſons who have deny'd that Power to the Court of Admiralty, upon Pretence that it is not a Court of Record.

And as a Diſpute of this Nature wou'd carry me beyond the propoſed Bounds, I ſhall not here take up much Time by entring into a double Enquiry what a Court of Record is, and whether the being a Court of Record be eſſential to a Court, for veſting it with a Power to take Judicial Recognizances and Stipulations for Appearance, *&c.*

But becauſe it wou'd be prepoſterous to let ſuch an important Article paſs without ſaying ſomething to the Purpoſe, that I may not be tedious in the Deciſion; I ſhall content my ſelf with making theſe two Remarks.

In the firſt Place, as to the Power of taking Judicial Recognizances and Stipulations for Appearance, it ſeems to be ſo inſeparably annex'd to all Courts of Judicature, that without it they wou'd not be Courts at all. For ſuch Recognizances and Stipulations being nothing elſe but obligatory Promiſes and Engagements of Perſons and Securities to the Court for Appearance, or for Performance of its Acts and Decrees, the inhibiting of them does neceſſarily imply the inhibiting of the whole Juriſdiction; and without them, whatever Judgment might be given, whether for the Plaintiff or Defendant, wou'd be but vain and ineffectual. And, Secondly, If other Courts ought to have that Power, much leſs can it be deny'd to the Court of Admiralty, which, according to the ſecond Article of the Reſolutions upon the Caſes of Admiral-Juriſdiction ſubſcribed by the Judges, *Anno* 1632. in Preſence of the King and Council, and hereafter inſerted, is ſtil'd, *The King's Court.* Beſides which, it is univerſally known, that the Court of Admiralty can hold Plea of Debt or Treſpaſs, for any Sum whatſoever: Which two Characters are conſonant to the Definition of a Court of Record given by the Lord *Coke* upon *Littleton* in the firſt Part of his *Inſtitutions*, *Book* 2. *Chap.* 11. *Sect.* 175. where 'tis ſaid, That *every Court of Record is the King's Court, albeit another may have the Profit; wherein if the Judges do err, a Writ of Error doth lie. But the County-Court, the Hundred-Court,*

Court, the Court-Baron, and ſuch like, are no Courts of Record; and therefore upon their Judgments a Writ of Error lieth not, but a Writ of falſe Judgment, for that they are no Courts of Record, becauſe they cannot hold Plea of Debt or Treſpaſs, if the Debt or Damage do amount to Forty Shillings, or of any Treſpaſs Vi & Armis.

Thus much being ſufficient for the Deciſion of the precedent Queſtion, of the Power of the Court of Admiralty in taking Judicial Recognizances and Stipulations for Appearance, *&c.* it will now be convenient to ſay ſomething of the Statute Laws, by which that Juriſdiction has been eſtabliſh'd and regulated: In order to which, I ſhould have been oblig'd to have made a Collection of all ſuch Statutes as have any relation to that Juriſdiction, if that laborious Task had not been perform'd to my Hand by the induſtrious Author of the aforeſaid Book, intituled, *A View of the Admiral-Juriſdiction*; where finding that Collection, together with ſome very ſeaſonable Remarks upon it, I thought it wou'd not be amiſs to inſert here as much of it as may be neceſſary for the better clearing of this Point, which you may take in the following Words.

'It is enacted by the Statute of 13 *R.* 2. *cap.* 5. *That the Admi-*
'*rals and their Deputies ſhall not meddle henceforth with any thing*
'*done within the Realm, but only with things done upon the Sea, as*
'*it hath been uſed in the Time of the Noble Prince King* Edward,
'*Grand-father of King* R. II. Whence it hath been inferred, that
'the Juriſdiction of the Admiralty is confin'd only to things
'done upon the Sea. The ſaid Statute ſays, *That the Admirals*
'*ſhall not meddle with any thing done within the Realm, but only*
'*with things done upon the Sea, as hath been uſed in the Time of*
'*King* Edward, *Grand-father of* R. II. that is, in the Time of
'*Edward* III. to the Uſage in whoſe Days the ſaid Words ſeem to
'have Reference, as Limitative with a *Referendo*. And admitting
'the word [*duly*] if not by the Letter of the Statute, yet by
'Conſtruction of Law, it may ſeem almoſt as equally difficult,
'exactly to know what was the *Uſage*, as what was the *due Uſage*,
'or what was in this Point *duly uſed* in the Days of *Edward* III.
'only with this Difference, that an *Uſage* being matter of *Fact*,
'there may be *rei Evidentia*, in that Caſe, to prove it ſelf; where-
'as to know what was *duly uſed*, may be matter of *Law*, and ca-
'pable of Diverſities of Opinion conſonant to various Perſwaſions.
'And yet until it be known what was in this matter the *due Uſage*
'in the Time of *Edward* III. it ſeems not indubitably obvious to

'every

'every running Intellect to conceive what may be the full Scope 'and true Intent and Meaning, *That the Admirals ſhall not med-* 'dle, &c. *but only with things done upon the Sea, as it hath been* 'uſed *in the Time of King* Edward, *Grandfather of King* Richard II. 'For the clearer Apprehenſion whereof it may not be impertinent '(under Submiſſion to better Judgments, and without preſuming 'on any thing *quod eſt ſupra nos*, as formerly hinted) to inquire 'a little what was *uſed*, or *duly uſed* in this Point of Admiral-'Juriſdiction in the Days of the ſaid *Edward* III. Grandfather to 'King *Richard* II.

'To this purpoſe the learned Mr. *Selden* in his incomparable 'Treatiſe of the Dominion and Sovereignty of the *Britiſh* Seas, 'gives us to underſtand, That it appears by ancient and publick 'Records containing divers main Points, touching which the 'Judges were to be conſulted with for the Good of the Kingdom 'in the Time of King *Edward* III. That Conſultation was had for 'the more convenient guarding of the Sea. For the whole Bench 'of Judges were then adviſed with, *To the end* (ſo runs the Re-'cord) *that the Form of Proceedings heretofore ordain'd and be-* 'gun by Edward I. *Grand-father to our Lord the King, and by his* 'Council, *at the Proſecution of his Subjects, may be* reſumed and 'continued *for the retaining and conſerving of the ancient Supe-* 'riority *of the Sea of* England, *and the* Authority of the Office of 'Admiralty in the ſame, as to the Correcting, Expounding, De-'claring, and Conſerving the Laws and Statutes long ſince made 'by *his Predeceſſors, Kings of* England, *for the* maintaining Ju-'ſtice *among all People of what Nation ſoever paſſing through the* 'Sea *of* England; *and* to take Cognizance *of all Attempts to the* 'contrary *in the ſame; and to puniſh Offenders, and award Satiſ-* 'faction *to ſuch as ſuffer Wrong and Damage; which Laws and* 'Statutes *were by the Lord* Richard, *heretofore King of* England, 'at *his Return from the* Holy Land, *interpreted, declared and* 'publiſhed *in the Iſle of* Oleron, *and named in* French *le Ley Oley-* 'roun. That which Mr. *Selden* takes ſpecial notice of, and com-'mends to our chiefeſt Obſervation, is what we find in theſe Re-'cords touching the *Original* of the Naval Laws publiſh'd at the 'Iſle of *Oleron*. The ſaid Statute of 13 *Rich.* II. makes mention of 'the *Uſage* in the Time of King *Edward*, Grand-father of *Rich.* II. 'who was *Edward* III. in whoſe Reign (according to this Record) 'not only the Form of Proceedings ordained by King *Edward* I. and 'his Council, were to be reſum'd and continu'd for the retaining 'and conſerving the Authority of the Office of Admiralty, as to 'the Correcting, Expounding, Declaring and Conſerving the Laws

'and

'and Statutes made long before by the Predeceſſors of the ſaid 'King *Edward* I. for the maintaining of Peace and Juſtice among 'the People of what Nation ſoever, and to take Cognizance of all 'Attempts to the contrary, to puniſh Offenders, and to award 'Satisfaction to ſuch as ſuffered Wrong and Damage: But alſo 'that thoſe very Laws and Statutes which were ſo to be Corrected, 'Declared, Expounded and Conſerved by the Authority of the 'Office of the Admiralty, were the Sea-Laws publiſh'd at *Oleron* 'by King *Richard* I. So that the ſaid Laws of *Oleron* gave the 'Rule, and ſeems to be the *Uſage* concerning the Admiralty in the 'Time of *Edward* III. whereof the ſaid Statute of 13 *Rich.* II. ſpeaks; 'and by which Laws all Maritime Affairs, whether upon or be-'yond the Seas, are properly Cognizable in the Juriſdiction of 'the Admiralty. And in thoſe Laws of *Oleron*, ſo publiſhed by '*Richard* I. are comprehended the Matters of Admiral Cognizance 'whereunto that *Form* of *Proceeding* (in theſe Records mentioned, 'to be ordain'd by *Edward* I. and afterwards to be reſumed, revi-'ved, and continued by *Edward* III.) relates. Which very Re-'cords are alſo *verbatim* tranſcrib'd and publiſh'd by the Lord '*Coke*, in that Part of his *Inſtit.* concerning the Court of Admiral-'ty, which ſpeaks of the Superiority of *England* over the *Britiſh* 'Seas, and of the Antiquity of the Admiralty of *England*, which 'he there proves expreſly as high as to the Time of *Edward* I. and 'by good Inference of Antiquity and ancient Records much higher. 'For it appears by ancient Records, that not only in the Days of 'King *Edward* I. but alſo in the Days of King *John*, all Cauſes 'of Merchants and Mariners, and things happening within the 'Flood-Mark, were ever tryed before the Lord Admiral.

'Again, for the clearer Underſtanding of what was the *Uſage* 'in the Time of *Edw.* III. concerning the Admiralty, it may be 'obſerved, that in the beginning of theſe Records in *Edward* III's 'Time, it is ſaid, That a Conſultation was had, and the whole 'Bench of Judges adviſed with, to the end, that the *Form* of *Pro-'ceedings* heretofore ordained by *Edward* I. and his Council, ſhou'd 'be reſumed and continued, not only for the retaining and con-'ſerving the ancient Superiority of the Sea of *England*, but alſo 'the Office of the Admiralty, as to the correcting, expounding, 'conſerving and declaring the Laws and Statutes long ſince made 'by his Predeceſſors, for the maintaining of Peace and Juſtice, '*&c.* If upon a full Conſultation in *Edw.* III's Time, That *Form* 'of *Proceeding* which had been formerly ordained by *Edward* I. 'and his Council, ſhall be again reſumed and continued, it ſeems 'then requiſite in the next Place to enquire a little farther, what

'was

was ordain'd by the ſaid *Edward* I. and his Council, over and above what is already mentioned in the ſaid Record. And it appears, that in the Days of the ſaid *Edward* I. there was a good Proviſion and Remedy ordained for ſuch Complainants as, by Prohibitions iſſuing out of one Court to ſurceaſe the legal Proſecution of their Rights in another, could obtain Redreſs in neither. For by the Statute of the Writ of Conſultation in *Anno* 24. *Edw.* I. It is enacted, *That where there is a ſurceaſing of Proceedings upon Prohibitions, and the Complainants could have no Remedy in the King's Court, that then the Lord Chancellor, or Lord Chief Juſtice upon ſight of the Libel, ſhould write to the Judges before whom the Cauſe was firſt moved, that they proceed therein notwithſtanding the King's Prohibition directed to them before.* In a Word therefore, the ſaid Statute of 13 *R.* II. mentions the *Uſage* in the Time of *Ed.* III. *Edward* the Third reſumes and continues the Laws of *Oleron* publiſh'd by *Rich.* I. and what was ordained in the Time of *Ed.* I. and *Edward* the Firſt ordain'd as in the Records aforeſaid, and Statute of Conſultation.

The *Expoſitor* of the *Terms of Law*, in his Deſcription of the Lord Admiral, ſays, *That he is an Officer to judge of Contracts between Party and Party, concerning things done upon or beyond the Seas.* And in another of antient Authority it is ſaid in theſe Words, viz. *That if an Obligation bear Date out of the Realm, as in* Spain, France, *or ſuch other, it is ſaid in the Law, and Truth it is,* (they are the Author's Words) *that they be not pleadable at Common Law.* Alſo the learned *Selden*, in the aforecited Place, ſays, *That the Juriſdiction of the Common Law extends not it ſelf beyond the Seas, and without the Realm of* England; For, (as he ſpeaks) *In the Law of the Land it is reckon'd among the Privileges of ſuch as are abſent, That they who ſhall be out of the Realm of* England *at the levying of a Fine of any Land, and making Proclamation thereupon, are not ſo bound either by a Yearly Preſcription as heretofore, or by a five Years Preſcription, as is uſual of later Times, but that their Right remains entire to them upon their Return home.* So that being beyond Sea, and without the Realm of *England* at that Time, and nothing of Prejudice in that Caſe faſtned on them by reaſon of any Non-appearance, it ſeems as without the reach of the Common Law. And Mr. *Selden* in the ſame Place proves, That to be *beyond* the Seas, or *extra quatuor Maria*, doth in the Common Law-Books ſignify the very ſame thing with *extra Regnum.* And again Mr. *Selden* (for 'tis but due, as well to the Truth as his Memory,

'mory, to repeat his Authority) in the ſame Place aſſerts, con-
'cerning Things relating to Actions for Matters Maritime, *That*
'*they were not wont to be entered in expreſs Terms heretofore, in*
'*the ordinary Courts of the Common Law, whoſe Juriſdiction was*
'*ever eſteemed of ſuch a Nature, that an Action inſtituted about a*
'*a Matter ariſing in any other Place than* within *the Bounds of the*
'*Realm, was by the ancient ſtrict Law always to be rejected by them.*
'*After which Manner as it hath been a Cuſtom now for many Years,*
'*that an Action ought to be rejected, unleſs the Matter have its*
'*Riſe within the* Body, *as they call it, of the County, that is, with-*
'*in ſome Province or County of the Iſland, uſually given in charge*
'*to certain Governours or Officers known to us by the Name of She-*
'*riffs; So alſo it is in the* Sea-Province *belonging, by the antient*
'*received Cuſtom, to the High Admiral or his Deputies, not only*
'*ſo far as concerns its Defence and Guard, but alſo as to Matter*
'*of Juriſdiction.* Likewiſe in the ſame Place Mr. *Selden*, in Ho-
'nour of the Admiralty, ſays, That in ancient Records, con-
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'*Cuſtom in the Time of King* Henry the Firſt, *and of other Kings*
'*both before and after him, That if any Man accuſed of a Capital*
'*Crime, done by Sea, being publickly called five Times by the Voice*
'*of the Cryer, (after ſo many ſeveral Days aſſigned) did not make*
'*his Appearance in the Court of Admiralty, he was baniſhed out of*
'England, de mer appurtenant au Roy d'Angleterre, *or out of*
'*the Sea belonging to the King of* England *for Forty Years, more or*
'*leſs, according to the Pleaſure of the Admiral.*

All which being duly conſider'd, the Power and Juriſdiction of the Court of Admiralty of *England*, will not appear to be ſubject to ſuch Limitations and Reſtrictions as by ſome have been imagin'd; but that on the contrary, its Authority has always been own'd and acknowledg'd by the Supreme Powers of the Nation; eſpecially, if to what has been already urg'd, we may add what is ſaid to have been alledg'd by *Haughton* in an Admiral-Court Caſe, *Brownlow's Reports, Part* 2. viz. 'That *the Intent of the Statute of* 13 R.
'II. cap. 5. *was not to inhibit the Admiral Court to hold Plea of*
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'*and that this was the Intent of the Statute, appears by the Pre-*
'*amble.* And in the ſame Report it is further ſaid, *That* Walmeſ-
'ley *and* Warburton *Juſtices agree, That if a Thing be done* be-
'yond Sea, *as if an Obligation bears Date* beyond Sea, *or be ſo lo-*
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'was ordain'd by the ſaid *Edward* I. and his Council, over and 'above what is already mentioned in the ſaid Record. And it ap- 'pears, that in the Days of the ſaid *Edward* I. there was a good 'Proviſion and Remedy ordained for ſuch Complainants as, by 'Prohibitions iſſuing out of one Court to ſurceaſe the legal Pro- 'ſecution of their Rights in another, could obtain Redreſs in nei- 'ther. For by the Statute of the Writ of Conſultation in *Anno* 24. 'Edw. I. It is enacted, *That where there is a ſurceaſing of Pro- 'ceedings upon Prohibitions, and the Complainants could have no 'Remedy in the King's Court, that then the Lord Chancellor, or 'Lord Chief Juſtice upon ſight of the Libel, ſhould write to the 'Judges before whom the Cauſe was firſt moved, that they proceed 'therein notwithſtanding the King's Prohibition directed to them be- 'fore.* In a Word therefore, the ſaid Statute of 13 *R.* II. men- 'tions the *Uſage* in the Time of *Ed.* III. *Edward* the Third re- 'ſumes and continues the Laws of *Oleron* publiſh'd by *Rich.* I. 'and what was ordained in the Time of *Ed.* I. and *Edward* the 'Firſt ordain'd as in the Records aforeſaid, and Statute of Con- 'ſultation.

'The *Expoſitor* of the *Terms of Law*, in his Deſcription of the 'Lord Admiral, ſays, *That he is an Officer to judge of Contracts 'between Party and Party, concerning things done upon or beyond 'the Seas.* And in another of antient Authority it is ſaid in theſe 'Words, viz. *That if an Obligation bear Date out of the Realm, 'as in* Spain, France, *or ſuch other, it is ſaid in the Law, and 'Truth it is,* (they are the Author's Words) *that they be not 'pleadable at Common Law.* Alſo the learned *Selden*, in the afore- 'cited Place, ſays, *That the Juriſdiction of the Common Law ex- 'tends not it ſelf beyond the Seas, and without the Realm of* Eng- 'land; For, (as he ſpeaks) *In the Law of the Land it is reckon'd 'among the Privileges of ſuch as are abſent, That they who ſhall 'be out of the Realm of* England *at the levying of a Fine of any 'Land, and making Proclamation thereupon, are not ſo bound 'either by a Yearly Preſcription as heretofore, or by a five Years 'Preſcription, as is uſual of later Times, but that their Right re- 'mains entire to them upon their Return home.* So that being be- 'yond Sea, and without the Realm of *England* at that Time, and 'nothing of Prejudice in that Caſe faſtned on them by reaſon of 'any Non-appearance, it ſeems as without the reach of the Com- 'mon Law. And Mr. *Selden* in the ſame Place proves, That to be 'beyond the Seas, or *extra quatuor Maria*, doth in the Common 'Law-Books ſignify the very ſame thing with *extra Regnum.* And 'again Mr. *Selden* (for 'tis but due, as well to the Truth as his Me-

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'*in ſome Province or County of the Iſland, uſually given in charge*
'*to certain Governours or Officers known to us by the Name of She-*
'*riffs; So alſo it is in the* Sea-Province *belonging, by the ancient*
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'*ſo far as concerns its Defence and Guard, but alſo as to Matter*
'*of Juriſdiction.* Likewiſe in the ſame Place Mr. *Selden*, in Ho-
'nour of the Admiralty, ſays, That in ancient Records, con-
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'*both before and after him, That if any Man accuſed of a Capital*
'*Crime done by Sea, being publickly called five Times by the Voice*
'*of the Cryer, (after ſo many ſeveral Days aſſigned) did not make*
'*his Appearance in the Court of Admiralty, he was baniſhed out of*
'England, de mer appurtenant au Roy d'Angleterre, *or out of*
'*the Sea belonging to the King of* England *for Forty Years, more or*
'*leſs, according to the Pleaſure of the Admiral.*

All which being duly conſider'd, the Power and Juriſdiction of the Court of Admiralty of *England*, will not appear to be ſubject to ſuch Limitations and Reſtrictions as by ſome have been imagin'd; but that on the contrary, its Authority has always been own'd and acknowledg'd by the Supreme Powers of the Nation; eſpecially, if to what has been already urg'd, we may add what is ſaid to have been alledg'd by *Haughton* in an Admiral-Court Caſe, *Brownlow's Reports, Part* 2. viz. 'That *the Intent of the Statute of* 13 R.
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'*any Thing made* beyond Sea, *but only of Things made within the*
'*Realm, which pertains to the Common Law, and is not in Preju-*
'*dice of the King or Common Law, if he hold Plea over the Sea;*
'*and that this was the Intent of the Statute, appears by the Pre-*
'*amble.* And in the ſame Report it is further ſaid, *That* Walmeſ-
'ley *and* Warburton *Juſtices agree, That if a Thing be done* be-
'yond Sea, *as if an Obligation bears Date* beyond Sea, *or be ſo lo-*
'cally, *that it cannot be tryed by the Common Law, if the Admiral*

'*hold Plea of that, Prohibition ſhall not be awarded, for it is not*
'*to the Prejudice of the King or of the Common Law.*

'By the Statute of 15 *R.* II. *cap.* 3. it is Enacted and Declared,
'*That the Court of Admiralty ſhall have no Cognizance of Con-*
'*tracts, Pleas, or Quereles, or other things done within the Bodies*
'*of the Counties, as well by Land as by Water; Nevertheleſs of*
'*the Death of a Man, and of Mayhem done in great Ships being*
'*and hovering in the main Stream of great Rivers, only beneath the*
'*Bridge of the ſame Rivers nigh to the Sea, and in no other Places*
'*of the ſame Rivers, the Admiralty ſhall have Cognizance.* From
'hence it hath been obſerv'd by way of Inference, how curi-
'ous the Makers of this Statute were to exclude the Admi-
'ralty of all manner of Juriſdiction within any Water which ly-
'eth within any County of this Realm; poſſibly it hath not been
'ſo exactly obſerved by way of Redreſs, how unfortunate, eſpe-
'cially of late Years, the ſame hath been, in having its Juriſdi-
'ction impeded and obſtructed in Waters without any County of
'this Realm, by the prohibitory Conſequences of a Surmize or
'Suggeſtion, when in *rei veritate*, the Matter was otherwiſe than
'ſurmized or ſuggeſted. And it being well known to the whole
'World, of what Luſtre and Value the Jewel of the Admiralty
'is (when well ſet) in the Diadem or Crown of *Great Britain*,
'it may not now be unſeaſonable to alledge what is aſſerted, (as
'is aforeſaid) to be of ancient Record, *viz. That not only in the*
'*Days of* Edward *the Firſt, but alſo in the Days of King* John,
'*all Cauſes of Merchants and Mariners, and things happening*
'*within the Flood-Mark, were ever tryed before the Lord Admiral.*
'Conſonant to what was reſolved in Sir *Henry Conſtable*'s Caſe,
'*That the Soil betwixt the high and low Water-Mark may be the*
'*Subjects*; *but when covered with Water, the Admiral's Juriſdiction*
'*reaches it.*

'By the Statute of 2 *H.* IV. *cap.* 11. It is Enacted, *That the Sta-*
'*tute of* 13 R. II. cap. 5. *ſhall be firmly holden and kept, and put in*
'*Execution.* This Statute therefore ſeems as a Reviver, or in
'Confirmation of that, which (as aforeſaid) mentions, *according*
'*to that which hath been duly uſed in the Time of King* Edward,
'*Grand-father of King* Richard *the Second*; which being former-
'ly inſiſted on, a Retroſpect may here ſuffice.

'By the Statute of 27 *Eliz. cap.* 11. it is Enacted, *That all and*
'*every ſuch of the ſaid Offences before-mentioned, as hereafter*
'*ſhall be done upon the main Sea, or Coaſts of the Sea, being no*
'*Part of the Body of any County of this Realm, and without the*
'*Precinct, Juriſdiction and Liberty of the Cinque-Ports, or out*

'*of*

'*of any Haven or Pier, ſhall be tryed and determined before the* '*Lord Admiral*, &c. It hath been hence inferred, That by the 'Judgment of the whole Parliament, the Juriſdiction of the Ad-'miralty is wholly confin'd to the main Sea, or Coaſts of Sea, be-'ing no Parcel of the Body of any County of this Realm; and that 'this Statute is a particular Deſcription of that Juriſdiction, as 'to the Limits thereof. This Statute gives the Juriſdiction of the 'Admiralty a Power of Cognizance in ſuch Offences done upon 'the main Sea or Coaſts thereof; there's the Ampliation: Being 'no Part of the Body of any County, and without the Precinct 'of the Cinque-Ports, and out of any Haven or Pier; there's the 'Limitation. Where either of theſe is Part or Parcel of the Bo-'dy of any County within this Realm, the Admiralty may claim 'Juriſdiction therein. Touching Contracts made beyond Sea, the 'ſaid Letter of this Statute is ſilent; In the Reſolutions upon the 'Caſes of Admiral Juriſdiction, the Subſtance of the firſt Article 'or Propoſition is, *That no Prohibition be awarded againſt the* '*Court of Admiralty in Suits there commenced upon Contracts made* '*beyond the Sea.*

And now to what has been already ſaid, it will not be improper to add the afore-mention'd Reſolutions aſſented to, and ſubſcribed by all the Reverend Judges of both Benches in Preſence of King *Charles* I. himſelf, together with the Lords of his Majeſty's moſt Honourable Privy Council. Which Reſolutions were occaſioned by the reiterated Complaints of the Admiralty, concerning the Prohibitions that were daily granted upon bare Suggeſtions and Surmizes, without any Reality or Truth; and are ſo plain and expreſſive, that they ought not to be omitted on this occaſion. And therefore the Reader may accept them as here-under.

At *Whitehall*, 18 *February*, 1632. Preſent, *The King's Moſt Excellent Majeſty*,

Lord Keeper.
Lord Archbiſhop of *York*.
Lord Treaſurer.
Lord Privy Seal.
Earl Marſhal.
Lord Chamberlain.
E. of *Dorſet*.
E. of *Carliſle*.
E. of *Holland*.
E. of *Denbeigh*.
Lord Chancellor of *Scotland*.
E. of *Morton*.
Lord V. *Wimbleton*.
Lord V. *Wentworth*.
Lord V. *Faulkland*.
Lord Biſhop of *London*.
Lord *Cottington*.
Lord *Newburgh*.
Mr. Treaſurer.
Mr. Comptroller.
Mr. Vice Chamberlain.
Mr. Secretary *Coke*.
Mr. Secretary *Windebank*.

'*This Day his Majeſty being preſent in Council, the Articles and Propoſitions following for the accommodating and ſettling the Difference concerning Prohibitions, ariſing between his Majeſty's Courts at* Weſtminſter, *and his Court of Admiralty, were fully debated and reſolved by the Board; and were then likwiſe upon reading the ſame as well before the Judges of his Majeſty's ſaid Courts at* Weſtminſter, *as before the Judge of his ſaid Court of Admiralty, and his Attorney-General agreed unto, and ſubſcribed by them all in his Majeſty's Preſence*, viz.

'1. If Suit ſhould be commenced in the Court of Admiralty upon Contracts made, or other Things Perſonal, done beyond the Seas, or upon the Sea, no Prohibition to be awarded.

'2. If Suit be before the Admiral for Fraight, or Mariners Wages, or for Breach of Charter-parties, for Voyages to be made within the Realm, ſo as the Penalty be not demanded, a Prohibition is not to be granted. But if the Suit be for the Penalty, or if the Queſtion be, Whether the Charter-party were made or not; or whether the Plaintiff did releaſe, or otherwiſe diſcharge the ſame within the Realm; this is to be tried in the King's Courts at *Weſtminſter*, and not in his Court of Admiralty.

'3. If Suit be in the Court of Admiralty for building, amending, ſaving, or neceſſary victualling of a Ship, againſt the Ship it ſelf, and not againſt any Party by Name, but ſuch as for his Intereſt makes himſelf a Party; no Prohibition is to be granted, tho' this be doue within the Realm.

'4. Although of ſome Cauſes ariſing upon the *Thames* beneath the firſt Bridge, and divers other Rivers beneath the firſt Bridge, the King's Courts have Cognizance; yet the Admiral hath alſo Juridiction there, in the Point eſpecially mentioned in the Statute of 15 *R.* 2. and alſo by Expoſition and Equity thereof, he may enquire of, and redreſs all Annoyances and Obſtructions in theſe Rivers, that are any Impediment to Navigation, or Paſſage to or from the Sea; and alſo to try perſonal Contracts and Injuries done there, which concern Navigation upon the Sea: And no Prohibition is to be granted in ſuch Caſes.

'5. If any be impriſoned, and upon *Habeas Corpus* brought; if it be certified, that any of theſe be the Cauſe of his Impriſonment, the Party ſhall be remanded.

Subſcribed Feb. 1632. *by all the Judges of both Benches.*

And

And now that I have been ſo much obliged to the aforeſaid Author of the View of the Admiral Juriſdiction, *for a juſt Account of the Nature and Power of that Court, I ſhall tranſcribe the Catalogue he gives of the Admirals of* England, *from King* John's *Time till the Reign of King* James II. *for which he owns himſelf indebted to Sir* Henry Spelman. *To which I ſhall likewiſe add ſuch as have ſince enjoyed that Honourable Office which is now poſſeſſed by his Royal Highneſs Prince* George *of* Denmark, *Her Sacred Majeſty's Royal Conſort.*

CHAP. V.

Containing a Catalogue of ſuch as have been dignified with the Office of Lord High Admiral, or have otherwiſe enjoy'd that Command, under any other Denomination ſince King John's *Time to the Reign of Her now moſt Excellent Majeſty.*

In which no Mention is made of Marthuſus, *that* Princeps Nautarum, *in King* Edgar's *Time; nor of thoſe other* Tetrarchs *of his Navy, who for the Guard of the* Britiſh Seas *had no leſs than a thouſand Sail of Ships under their Command; nor of thoſe other Commanders in Chief, touching the Sea-Affairs, who have been, beſide the common and uſual Mode, conſtituted by his Succeſſors, Kings of* England; *But of ſuch only, as in the ordinary Way have been dignified with the ſaid Office, and Marine Authority in this Kingdom,* viz.

8 H. 3. *Richard de Lucy* is ſaid to have *Maritimam Angliæ.*

48 H. 3. *Thomas de Moleton* was conſtituted *Capitaneus & Cuſtos Maris & Portuum maritimorum.*

25 Ed. 1. *William de Leiburn* is ſtiled at the Aſſembly at *Bruges*, 8 Martii, 15 Ed. 1. 1286. *Admirallus Maris Angliæ.*

22 Ed.

22 Ed. 1. { *John de Botefort*, Admiral of the *North*, for the Coaſt of *Yarmouth*, and that Station.
William de Leiburn, Admiral of the *South*, for *Portſmouth*, and that Station.
A certain *Iriſh* Knight, Admiral of the *Weſt*, and the Parts thereof.

Admirals.

Of the North.

Viz.

From the Mouth of the River of *Thames* Northward.

34 Ed. 1. *Edward Charles.*
8 Ed. 2. *John Botetort.*
10 Ed. 2. *John Perbrun*, alias *Perburn.*
15 Ed. 2. *John Perburn.*
16 Ed. 2. *John Perburn.*
18 Ed. 2. *John Sturmy.*
19 Ed. 2. *John Otervin.*

Admirals of the three Coaſts of *England*, *viz.* of *Yarmouth*, *Portſmouth*, and the *Weſt*. And here note, That the *South* Coaſt is comprehended in the *Weſt*.

19 Ed. 2. *John de Stormy.*
20 Ed. 2. *John Sturmy.*
20 Ed. 2. *John Layborne.*
1 Ed. 3. *John Perbrun.*
8 Ed. 3. *John de Norwico.*
10 Ed. 3. *Thomas Ughtred.*

Admirals.

Of the Weſt.

Viz.

From the Mouth of the River of *Thames* Weſtward.

Gervaſe Allard.
William Cranis.
10 Ed. 2. *Nicholas Cryoll.*
Robert Leiburn, Kt.
12 Ed. 2. *John Athey.*
Robert de Leibourn, Knight, Admiral of the Weſtern Ports of *England*, *Wales* and *Ireland.*
Robert Batrail, alias *Batall*, one of the Barons of the Cinque-Ports.
Robert Bendon.
Nich. Keriel. } *Walſing.* calls
Joh. de Felton. } theſe the three

Nicholas Criell.
Nicholas Criell.
Wareſ. de Valoniis.
7 Ed. 3. *William de Clinton.*
Roger de Hegham, alias *Higham.*

10 Ed.

10 Ed. 3. *John de Norwico.* — *Walter de Say*, Baronet.

10 Ed. 3. *Rob. Ufford*, and *Joh. de Roos.* — *William de Manton.*

Admiralli Flotæ.

11 Ed. 3. *Walter de Manney.* — *Barthol. de Burgherſhe*, Knight.

12 Ed. 3. *Thomas de Draiton.* — *Peter Dardus*, alias *Bard.*

This *Thomas* elſewhere appears not as *Admiral*, but only as *Vice-Admiral* to *Walter de Manney*: So poſſibly in ſome others there may be ſome Errors alſo.

13 Ed. 3. *Robert Morley*, Bar. *de Hengham.* — *Robert Truſſel.*

14 Ed. 3. *Richard, Fil. Alani, Com. Arundeliæ.*

15 Ed. 3. *Robert de Morley.* — *William Clinton, Com. Huntingd.*

16 Ed. 3. *William Truſſel.* — *Robert Baupell.*

17 Ed. 3. *William Truſſell.* — *John de Monte Gomerico.*

18 Ed. 3. *Robert Uſſer, Com. Suff.* — *Reignald de Cobham.*

19 Ed. 3. *Richard, Fil. Alani, Com. Arundeliæ.*

20 Ed. 3. *Rob. de Ufford, Com. Suff.* — *Richard, Fil. Alani, Com. Arun.*

21 Ed. 3. *John de Howard*, Kt. — *John de Monte Gomerico*, Kt.

22 Ed. 3. *Walter de Manney, Bar. S. Salvato.* — *Reignald de Cobham*, Kt.

24 Ed. 3. *Robert de Cauſton.* — *John de Bello Campo*, Knight of the Noble Order of the Garter.

25 Ed. 3. *Robert de Morley.*

25 Ed. 3. *William de Bohun. Com. Northampt.* — *Henry* Duke of *Lancaſter.*

26 Ed. 3. *William de Bohun. Com. Northamp.* — *Tho. de Bello Campo, Senior, Com. Warwicen.*

29 Ed. 3 *Rob. de Morley, Bar. de Hengham.* — *John de Bello Campo*, Brother to the ſaid *Thomas.*

30 Ed. 3. *Rob. de Morley.* — *Guido de Brian*, Kt.

31 Ed. 3. *Guido de Brian.*

33, 34 Ed. 3. *Robert de Morley.* — *Guido de Brian.*

34 Ed. 3. *John de Bello Campo* aforeſaid, was conſtituted High Admiral as well of the *North* as of the *Weſt* of *England*, 18. *Julii*, 34 Ed. 3. At which Time he was alſo Lord Warden of the *Cinque-Ports*, Conſtable of the Tower of *London*, and of the Caſtle of *Dover*; and died *Decemb.* 2. the ſame Year in Poſſeſſion thereof.

35 Ed. 3. *Robert Herle*, Knight, *Admirallus omnium Flotarum utriusque partis.*

38 Ed. 3. *Ralph Spigornel*, *Admirallus utriusque partis.*

43 Ed. 3. *Nicholas Tamworth*, Kt. *Robert Aſton*, Kt.

44 Ed. 3. *John Nevil*, Kt. Bar. *de Raby.* *Guido Brian.*

45 Ed. 3 *Ralph de Ferrariis.* *Robert Aſton*, Kt.

46, 47, 48 Ed. 3. *W. de Nevil.* *Philip Courtney.*

50 Ed. 3. *Will. de Vfford Com. Suff.* *William de Monteacuto.*

50, 51 Ed. 3. *Mich. de la Poole*, Kt. *Dn. de Wingfield*, Brother of *Rob. de Hales*, Prior of the Hoſpital of St. *John* of *Hieruſalem.*

1 R. 2. *Thomas de Bello Campo*, *Jun. Com. War.* *Richard*, *Fil. Alani*, *Com. Arundeliæ.*

2 R. 2. *Thomas Percy*, *Frat. Com. Northum.* *Hugh Calvely*, Kt.

3, 4 R. 2. *William de Elmham*, Kt. *Philip Courtney*, Kt.

5 R. 2. *William de Elham.* *John Roches*, Kt.

6 R. 2. *Walter*, *Fil. Walt.* Knight, *Dn. de Woodham.* *John. Roches*, alias *de Rupibus*, Knight.

7 R. 2. *Hen. Percy*, *Com. North.* *Edw. Courtney Com. Devon.*

8 R. 2. *Tho. Percy*, *Frat. Hen. Com. Northumb.* *Jo. Radington*, Prior of St. *John* of *Hieruſalem.*

9 R. 2. *Philip Darcy*, Knight. *Thomas Trivet*, Kt.

10 R. 2. *Rich. Fil. Alani Com. Arundel*, *Admirallus Angliæ.*

12 R. 2. *Jo. de Bello Monte*, Bar. *de Folkington.* *Jo. Holland*, *Com. Huntington.*

12 R. 2. *Jo. de Rupibus*, Kt.

13 R. 2. *Jo. de Bello Monte prad.* *Jo. Holland. Com. prædict.*

14 R. 2. *Edw. Com. Rutland.* *Jo. Holland*, *Com. prædict.*

15 R. 2. *Edw. Com. Rutland*, *& Corcagiæ*, afterwards Duke of *Albemarle*, Conſtituted High Admiral as well of the *North* as *Weſtern* Parts.

21 R. 2. *John Beaufort*, Marq. *Dorſet*, *& Com. Somerſet*, *Fil. Jo. de Gandavo*, D. of *Lancaſter*, Admiral of *North* and *Weſt.*

22 R. 2. *Thomas Percy*, *Com. Wincheſter*, *Frat. Hen. Com. North.* he was then conſtituted Admiral of both Parts.

2 H. 4. *R. Gray*, Bar. *de Codenore.* *Tho. Reniſtan*, Kt.

5 H. 4. *Tho. Beauford*, *Frat. prad.* *Thomas Dom. Berkley*, Kt. Marq. *Dorſ.*

7 H. 4. *Nich. Blackburn*, Eſq; *Rich. Childerhow*, Eſq;

Ad-

Admirals of England, &c.

6 H. 4. *Tho. Lancaſtrius*, Reg. H. 4. *Fil.* Viceroy of *Ireland*, High Steward of *England*; afterward D. of *Clarence*, *Admirallus utriuſque Partis.*

8 H. 4. *John Beuford, prædict. Com. Somerſet. Admirallus Angliæ.*

8 H. 4. *Edmund Holland*, Earl of *Kent*, *Admirallus Angliæ.*

9 H. 4. *Thomas Beauford, præd. Adm. Angliæ.*

4 H. 6. *John Lancaſtrius*, D. of *Bedford*, E. of *Richmond* and *Cumdale*, High Conſtable of *England*, *Fil.* Reg. H. 4. *Adm. Angliæ.*

14 H. 6. *John Holland*, D. of *Exon.* E. of *Huntington*: Conſtituted (together with his Son) Admirals of *England*, *Ireland* and *Aquitain*, for Life.

25 H. 6. *Will. de la Poole*, Mar. & E. of *Suffolk*, made Admiral of *England*, *Ireland* and *Aquitain*, during the Minority of *Hen.* D. of *Exon*; who with his Father had that Office by the King's Grant, *ad terminum vitæ eorum*, &c.

28 H. 6. *Hen. Holland*, D. of *Exon. Adm. Ang. Hib. & Aquit.*

1 Ed. 4. *Rich. Nevil, Comes Warw. & Sarisb.* Admiral of *England*, *Ireland & Aquit.*

2 Ed. 4. *Will. Nevil*, E. of *Kent*, and Bar. *Falconberg*, Admiral of *England*, *Ireland* and *Aquit.*

Ed. 4. *Richard*, D. of *Glouceſter*, Brother to the King; Admiral of *England*, *Ireland* and *Aquit.*

42 H. 6. *Rich. Nevil*, E. of *Warw. & Sarisb.* Capt. of the Town and Caſtle of *Calic.* Conſtable of the Caſtle of *Dover*, & *Cuſtos* 5 *Portuum*, *Adm. ut ſupra.*

11 Ed. 4. *Rich.* D. of *Glouceſt. prædict.* Conſtituted Adm. *ut ſupra.*

1 R. 3. *John Howard*, D. of *Norfolk*, Adm. of *Engl. Irel.* and *Aquit.*

1 H. 7. *Joh. de Veer*, E. of *Oxford*, High Chamberlain of *England*, &c. Adm. *ut ſupra.*

4 H. 8. *Edw. Howard*, Kt. *Fil. Tho.* E. of *Sur.* afterwards D. of *Norf.* Admiral *ut ſupra.*

5 H. 8. *Tho. Howard*, elder Brother of the ſaid *Edw.* E. of *Sur.* afterwards D. of *Norf.* Admiral *ut ſupra.*

17 H. 8. *Hen. Fil. Nothus*, Reg. H. 8. D. of *Rich.* and *Somerſ.* E. of *Nottingh.* Admiral *ut ſupra.*

28 H. 8. *William Fitz. William*, E. of *Southampt.* Adm. *ut ſupra.*

32 H. 8. *John Ruſſel*, Kt. *Dom. Ruſſel*, Admiral *ut ſupra.*

34 H. 8. *John Dudley*, Kt. *Vicecom. Inſulæ & Bar. de Malpas*, &c. Admiral *ut ſupra.*

1 Ed. 6. *Thom. de S. Mauro (Vulg. Seimor)* Kt. *Dom. de S. Mauro de Sudley*, Brother of *Edw.* D. of *Somerſ. Adm. Angl. Hib. Wallia, Caleſ. Bolognia*, &c.

3 Ed. 6. *John Dudley*, E. of *Warwick*, *Vicecom. Liſley*, &c. *Magnus Admirallus Angl. Hib. Wall. Caleſ. Bologn. & Marchiarum earundem, Normaniæ, Gaſconiæ, & Aquitaniæ*; alſo *Præfect. Gen. Claſſis & Marium Regis*, &c.

4 Ed. 6. *Edw. Clinton*, Kt. Bar. *Clinton & Saius*, Admiral *ut ſupra.*

1 Mar. *Will. Howard*, Kt. Bar. *Effingham*, Admiral *ut ſupra.*

3 Mar. *Edward Clinton*, Kt. Bar. *Clinton & Saius*, Admiral *ut ſupra.*

27 Eliz. *Charles* Lord *Howard*, Knight of the Noble Order of the Garter, *Baro de Effingham*, E. of *Nottingham*, *Mag. Adm. Angl. Hiber. ac Dominiorum & Inſularum earundem, Villæ Caleſiæ & Marchiarum ejuſdem, Normandiæ, Gaſconiæ & Aquitaniæ*; alſo *Præfect. Gen. Claſ. & Marium dict. Regnorum.*

16 Jac. 1. *Georgius Marchio & Com. Buckingh. Vicecom. Villers, Baro de Whoddon, deinde* D. *Buckingh.* Knight of the Noble Order of the Garter, *&c.* Conſtituted *Mag. Adm. ut ſupra.*

15 Car. 1. *Algernon Percy, Comes Northumb. Illuſtriſſimi Ordinis Georgiani, Eques Auratu, conſtitutus fuit Adm. Angliæ.*

12 Car. 2. *Jacobus Dux Eboraci & Albaniæ Ultoniæ, Comes Illuſtr. Ordinis Periſcelidis, ſive Garteri Eques Auratus, conſtituebatur Magnus Admirallus Angliæ, Scotiæ & Hiber.*

13 Will. 3. The Right Honourable the Earl of *Pembroke* was created Lord High Admiral of *England.*

In the firſt Year of the Reign of our preſent moſt Gracious Sovereign, *Her Majeſty* was pleas'd to confer that Office upon her moſt Illuſtrious Conſort, His Royal Highneſs, *George* Prince of *Denmark*, who now enjoys it.

The Collection of Cases mention'd in the Title of this Article not being yet ready, and the Book being in such haste that it cannot admit of such great Delay as wou'd be necessary for making that Collection regularly, I shall conclude this Sheet and Article with a nice Relation of a Controversy that happen'd in King Charles *the* Second's *Time, between one of his Ambassador's and the Governour of the Castle of* Leghorn, *by which the Reader may be inform'd of the Punctilio's of the Salute reciprocally given or expected in the* Mediterranean; *which having found in a curious Manuscript accidentally come to my Hands, I hope it will be acceptable to the Publick. And afterwards I shall proceed to give a faithful and exact Translation of that excellent Body of* Sea Laws, *compiled by that refined* French *Politician, well enough known among us by the Name of* Colbert, *but dead several Years ago. And when that is done, I shall insert the Cases above-mention'd, with some Remarks upon them, which, I hope, will not be unacceptable.*

KIng *Charles* II. having been inform'd, that the Governour of the Fortress of *Leghorn* had refused to salute first his *British* Majesty's Ambassador, Sir *Daniel Harvey*, in his Way to *Constantinople*; the Great Duke of *Tuscany*'s Resident at this Court, gave in the following Narrative of that Affair by his Highness's Order.

Advice being brought that an *English* Ship of War having on Board Sir *Daniel Harvey*, his Majesty of *Great Britain*'s Ambassador coming from *Genoa*, should touch at *Leghorn* in his Way to *Constantinople*, and the Ship appearing and approaching the Haven the 29th of *October*, 1668. in the Morning, whilst the Governor was ordering Preparation to be made for giving the wonted Salute to the Lord Ambassador upon his Landing (the ordinary Salute being first reciprocally perform'd betwixt the Ship and the Fortress) he spy'd with much Astonishment a Standard display'd upon the Mast of the said Ship. And soon after the Lord Ambassador's Secretary coming ashoar, accompanied by a Merchant of that Nation, and presenting himself in his Excellency's behalf before the Governor, he declared, that his Lord pretended that the

the Fortreſs was firſt to ſalute the Ship, becauſe he had diſplay'd the Royal Standard by a particular Privilege, which he alledg'd his Maſter to be wont to grant to Perſons ſo qualified of his Kingdom; adding, That after that he expected the other which was due to him as Ambaſſador.

This ſurpriz'd the Governor ſo much the more, that the Ship (which was alone) was only commanded by one of his Majeſty's ordinary Captains, and not diſtinguiſh'd by any Title; which manner of Proceeding had not been practiſed elſewhere, ſince it was evident, that at *Genoa* the Ship had firſt ſaluted the Haven.

The Great Duke being acquainted therewith, refuſed to comply with the Ambaſſador's Demands, as being repugnant to the known Cuſtoms of thoſe Seas, as well as to his proper Intereſts. And deſiring that my Lord Ambaſſador might be rightly inform'd of the Neceſſity which his Highneſs lay under not to comply with his Excellency's Demands, he caus'd to be ſhewn to him moſt preciſe and evident Demonſtrations to the contrary of what he requir'd. And underſtanding that his Excellency inſiſted upon the Example of the Salute given the Month of *June* before, to the Ships and Gallies of *France*; to that it was anſwer'd, That thoſe Ships and Gallies were then under the Conduct and Command of a Vice-Admiral and Lieutenant-General of that Crown; a Quality not appearing in this Caſe, where the Ship was alone, and commanded by a private Captain. And as to the Standard diſplay'd upon the Maſt of the Ship, that being a thing new, and then unknown in thoſe Seas, it had not been eaſie to reply very readily to that Point, if the poſitive Practice at *Genoa* had not afforded a ſatisfactory Anſwer; 'twixt which Town and *Leghorn* there was never any ſuch Diſtinction made, ſince *Leghorn* has always perform'd the Functions of the Maritimal Ceremonies.

It was likewiſe inſinuated, That *Leghorn* being ſo much frequented by the *Engliſh* Nation, of the Commerce of which Place they manag'd the greateſt Share, it was to be hop'd that my Lord Ambaſſador would rather endeavour to add than to detract from the Honour of that City, as redounding to the Ornament and Advantage of his Highneſs the Great Duke, a Prince ſo entirely devoted to his Maſter, and ſo partially affected to the *Engliſh* Nation as it always had appear'd, and upon all Occaſions, ſhould appear he was.

Not-

Notwithſtanding all which, my Lord Ambaſſador being unwilling to give ear to any of thoſe Arguments, or in the leaſt to deſiſt from his firſt Pretenſions, order'd his Secretary (who treated with the Serjeant-Major of the Place) to declare that he had poſitive Orders from the King his Maſter, not to ſalute any Port firſt. To which being anſwer'd again, That *Genoa* had been firſt ſaluted by the Ship; it was reply'd, That that was done in Conſideration that *Genoa* was a Metropolitan City; and added, That the ſaid City had not afterwards made any Difficulty in returning the Salute due to the Royal Standard. To which it was anſwer'd, That it had been before urg'd, that there never had been any ſuch Diſtinction made before between *Genoa* and *Leghorn* with regard to Maritime Affairs, and that when the uſual Salute was firſt given by the Ship, there ſhould no Difficulty be made concerning that due to his Excellency's Perſon upon his coming aſhoar. After which my Lord Ambaſſador's Secretary alledging, that his Maſter pretended that Salute, becauſe the ſame had been before performed to the Ambaſſador of *France*, the contrary was made appear by evident Proofs. Upon which Sir *John Finch*, his Majeſty of *Great Britain*'s Reſident with the Great Duke, arriving at *Leghorn*, he urg'd a new Motive which he thought ſufficient to induce the Governor to cauſe the Ship to be ſaluted firſt; and that was, becauſe the Standard that Ship carried, was called that of *Union*, and was the ſame that Prince *Rupert* had carried; but the Governor proteſting he had never heard of any ſuch Standard, nor that the Ambaſſadors of *England* proceeded in that manner in their Voyages, and ſtill refuſing to comply with thoſe Demands, the Reſident threatned that he would complain of him to his Highneſs for occaſioning ſo much Diſorder and Confuſion, replying to the Example of *Genoa*, that Cardinal *Durrazzi* had plainly made it appear, that they were not us'd to ſalute firſt, even the Generaliſſimo of the Pope, or of *Spain*, or any other Standard in the World; which he urg'd with very much Heat; tho' it be certain (whatever Pretence the *Genoeſe* have) that no Standard-Royal goes to *Genoa*, but is to be ſaluted firſt, except the Squadrons ſubordinate to the Generaliſſimo and Lieutenant-Generals of *Spain* who likewiſe practiſe the ſame things at *Leghorn*. And the Reſident and Secretary being deſir'd to ſhew the Patent and Juſtification that the Ambaſſador's Standard was that of *Union*, and the ſame that Prince *Rupert* carry'd; they made anſwer, That Inſtructions were not to be ſhewn, and that their Word was to be taken. To which it was reply'd, That they did not pretend to ſee their In-

Inſtructions, but that the Marquiſs of *Martello*, Vice-Admiral of *France*, had ſhew'd his with all poſſible readineſs.

In the mean time the Great Duke being inform'd of what had paſs'd, and deſirous to remove all Cauſes of Diſſatisfaction, he ordered the Governor of the Place to propoſe ſome indifferent Terms, by which his own Prerogative might remain entire, and my Lord Ambaſſador at the ſame time might not be deprived of the Marks of Honour and Reſpect, which for his great Devotion to the Crown of *England*, his Highneſs intended ſhould be given him in the Character he then had the Honour to bear. But the Secretary would not accept of any Project; continually alledging, that his Excellency's Inſtructions were poſitive and preciſe to demand in every Place, and particularly at the Port of *Leghorn*, Salutes equal to thoſe due to an Admiral, and wou'd not hear of abating any thing to his Maſter's Demands, excluding ſtill the Example of *Genoa* by contrary Cuſtom at *Leghorn*, as by what was practis'd in the Caſe of Vice-Admiral *Martello*, &c. And tho' he would not give ear to any Propoſitions in the leaſt derogatory of his own, he having declared, that the Standard diſplay'd by the Lord Ambaſſador, was a Privilege particular to his Excellency, and that it ſhould not only be taken down when he was at *Conſtantinople*, but whenever his Excellency ſhould come aſhoar, either at *Leghorn*, or elſewhere; it was ſuggeſted to the Reſident, that ſince the Standard gave no Prerogative to the Ship, and was to be taken down when the Ambaſſador came aſhoar, his Excellency might very well conſent that his Ship, taking down the Standard whilſt he was paſſing to the Shoar, might ſalute the Fortreſs, in which Caſe the Fortreſs ſhould doubly ſalute the Perſon of the Ambaſſador; once at the *Spiaggia*, and again when his Excellency came on Shoar: But the Reſident refuſing likewiſe to comply with this Propoſal, another was made, intimating, That if my Lord Ambaſſador would be pleas'd to come aſhoar *incognito*, and lay all Salutes aſide, to take away all Occaſions of Diſcourſe, he ſhould be deſired to accept the Preſent uſually given to the Ambaſſadors of the greateſt Crown'd Heads; but the Reſident not being in the leaſt diſpos'd to conſent to that Propoſal, and acquainting the Ambaſſador with what paſs'd, there remaining no Means for his Highneſs to ſhew his Excellency the Eſteem he had for him, he writ him a Letter, to which the Ambaſſador anſwered, That notwithſtanding what was paſt, his Maſter expected that that Honour ſhould be done to Sir *Thomas Allen*, who was then in thoſe Parts with a Fleet; and after the Ship had rid Nine Days at Anchor, and

taken

taken in what ſhe wanted there, ſhe ſet Sail with a fair Wind for the *Levant*.

Now as to the Importance of this Ceremonial Punctilio of contending about ſaluting the Caſtles, Ports and Fortreſſes before which our Ships of War may at any Time come to an Anchor; tho' to ſome it may appear to be but a trifling frivolous Matter, the thing is really in it ſelf of a higher Conſequence than they are aware of: For, ſuppoſe an *Engliſh* Admiral, or other Inferior Officer coming to an Anchor before any Port or Fortreſs in the *Mediterranean*, or elſewhere, ſhou'd there pay to the aforeſaid Port or Fortreſs any greater Honour or Homage, or be ſatisfy'd with any Mark of Honour and Reſpect, perform'd in any other manner than is practis'd by the Admirals and Commanders of others, even the greateſt of Crown'd Heads, ſuch as the Kings of *France* and *Spain*; 'tis certain that ſuch *Engliſh* Admiral or Commander wou'd be with a great deal of Reaſon cenſur'd for ſuch an Action, which cou'd not but be derogatory of the Honour of his Sovereign, and tend to the leſſening of the Reputation of the Nation in Foreign Parts; and therefore it is, that particular Care is always taken to give the Officers who are ſent upon ſuch Expeditions, ſufficient Inſtructions how to behave themſelves upon ſuch nice Occaſions.

CHAP. VI.

Of the Maritime Laws and Ordinances of France, *with ſome Notes and Remarks upon them.*

THE ſurprizing Succeſs of the *French* in Navigation (to which, but in our Fathers Days they were almoſt abſolute Strangers) is, in my Opinion, principally owing to the Excellent Laws and Ordinances which have of late been eſtabliſh'd in that Kingdom for the Regulation of all Maritime Affairs; in which their ſummary and eaſie Method of proceeding has been found to be very beneficial to all that have had Occaſion to be concern'd in it: For the Government finding that the only Means to have a powerful Navy, was to encourage Trade and Navigation amongſt private Perſons; nothing

nothing was omitted that could, in any manner, tend to the Advancement of Commerce.

And indeed, if we conſider the prodigious Increaſe of the Naval Strength of *France* within theſe 50 Years laſt paſt, we muſt acknowledge, That they have been very induſtrious in promoting Trade; and if we examine the Means they have us'd, we ſhall find them to be ſuch, as ſeldom, if ever, miſs'd of the deſired Succeſs; becauſe particular Care was taken to remove all manner of Impediments that might obſtruct the Progreſs and Improvement of Navigation.

I hope no Man of Senſe will take amiſs what I here ſay to the advantage to the Naval Laws and Conſtitutions of *France*, as if I thereby ſeem'd to have leſs Reſpect than I ought to have for thoſe of *England*: Tho' the *French* be Enemies to us, we ſhould not be ſo much Enemies to our ſelves, as to reject the Uſe of good Laws, meerly becauſe they are in Force amongſt them, or have been devis'd by them. Whatever our Practice may be, I can aſſure you, that they are nevertheleſs taken with good Laws, for being enacted in bad Governments; for on the contrary they have, in the Matter of Trade, conſulted all the Laws and Statutes in Force in any Place of *Europe*; of which, retrenching what was ſuperfluous or inconvenient, ſupplying what was deficient with proper Regulations for every Subject, they have certainly compil'd the moſt accompliſh'd Syſtem of Laws for Trade and Navigation, that ever *Europe* ſaw. Nor would it in the leaſt be any Diſhonour to us to follow their Example, in Things ſo worthy of Imitation, ſince all the World acknowledges the Reaſonableneſs of that uſeful Maxim,

Fas eſt, & ab hoſte doceri.

The *French* are now ſo throughly convinc'd of the Folly of their Fore-fathers, in deſpiſing and neglecting Commerce, that about the Beginning of the late War, an Edict was publiſh'd, allowing Gentlemen to trade by Wholeſale, which till then was never heard of in *France*; but on the contrary, if a Gentleman only marry'd a Merchant's Daughter, he derogated from his Quality; of which they were ſo ridiculouſly jealous, that neither Merit nor Money could induce them to marry below their own Condition: But by the late above-mention'd Edict, Traffick is made conſiſtent with Quality; and as the King of *France* is imagin'd Omnipotent among his own Subjects, it will doubtleſs operate the intended Effect.

Nor is there a more compendious Way for a Man to make his Fortune in *France*, than by projecting any thing that may tend to the Benefit of Commerce. The famous *Colbert* was indeed rais'd to the Poſt of *Sur-Intendent* of the *Finances*, by the Character that Cardinal *Mazarin* gave of his Fitneſs for that Imployment; but his Capacity in advancing the Intereſt of the Kingdom, by the Improvement of Commerce and Navigation, render'd him a Man ſo neceſſary at Court, that the King neither undertook, nor ſuffered others to undertake any thing conſiderable of that Nature without his Advice; which was always applauded, always follow'd, and had always Succeſs. He was the principal Contriver of the excellent Regulations for Exchange and Commerce already ſpoken of: And in a Word, being acknowledg'd by all to be a competent Judge of all ſuch Matters, a perfect Deference was ever had for his Opinion about every thing that had any Relation to Trade.

However, that accompliſh'd Miniſter being ſenſible, That (conſidering the other great Affairs of State, with which the manifold Dignities he deſervedly poſſeſs'd at Court, did neceſſarily oblige him to be taken up) he could not apply himſelf ſo much as he deſir'd to the Improvement of Commerce, which was his darling Study, he ſo highly encourag'd the Induſtry of other fit Perſons, and ſo favourably receiv'd any Propoſition made for the Advancement of Traffick and Navigation, that the Hopes of Preferment ſetting People's Brains a working, the Naval and Mercantil Polity of *France* was ſoon reduc'd into a Method that could not miſs of making it flouriſh and proſper almoſt all the World over.

Amongſt other Methods that have been taken for the Advancement of Navigation, and the Increaſe of Navigators, Schools were erected in ſeveral Places of the Kingdom; in which all Perſons that will repair thither, are taught the Theoretical Part of Sailing, and of all Things belonging to it, by the moſt accompliſh'd Mathematicians that the Kingdom can afford; who have large Salaries from the Government for that Service, which they muſt perform *Gratis* to all that deſire to be inſtructed: And (which is more) ſo very deſirous are they of providing themſelves with able and skilful Seamen, that upon the humble Requeſt of any young Man deſirous to learn Navigation, and wanting means to ſubſiſt without ſome other Buſineſs, during the Time that muſt be employ'd in that Study, a competent Subſiſtence is allow'd him by the Government; ſo that inſtead of paying for the Knowledge he acquires in ſuch an uſeful Art, by which he procures a certain Livelihood for his Life-time, he is paid for his Trouble in learning

ing a Profeſſion which may eaſily make his Fortune. And thence it is that *France* is very well provided with a great Number of able and ſufficient Pilots, Gunners, Maſters, *&c.* and all other Sea Officers, both for the Service of the King and the Merchants; and whether we conſider the Strength of the *French* Navy, the Number of their Merchant Ships and Mariners, or the State of their Foreign Plantations, the good Effects of the Means they have us'd to encourage Navigation, will be obvious.

Upon an exact Survey into the State of their Trade, we ſhall find that five or ſix particular Towns of *France* now have, or had at the Beginning of the late War, more Ships belonging to them, than I believe the whole Kingdom could have muſter'd not many Years ago. *Bourdeaux*, *Rochel*, *Nantz*, St. *Malo*'s, *Havre de Grace*, and *Diep*, and ſome other Towns in *Britanny* and *Normandy*, ſend every Year a good Number of Ships to the Fiſhings of *Newfoundland*; which is a very beneficial Voyage, and employs a great many Men and Ships beſides them that go thither.

And though it be but of late that the *French* have gotten the Knack of furniſhing themſelves at the firſt hand, they were before the War, crept into all the Corners of *America*; and I wiſh that we may at laſt effectually deprive them of the Benefit they're in hopes to reap from their Communication with *New Spain*.

They have, to my certain Knowledge, ſome good Eſtabliſhments in *Guiney*, whether the *French* King ſent (I think about the Beginning of the Year 1701) four or five ſtout Men of War, and I believe above 1000 Land Men, with Officers, Friars, *&c.* and a Mixture of all manner of People, to ſettle a Colony in a little Kingdom in *Guiney*, which by the Death of the then King, had devolv'd upon a *Mooriſh* Prince, who had lived many Years in *France*, and ſerved a conſiderable Time in the *French* Army; upon whom the *French* King having conferr'd ſeveral Honours, and made him very rich Preſents, he departed from *Rochel* with the Convoy already mention'd in the Year 1701, and certainly did favour his Friends the *French* as much as he could.

Marſeilles and other Towns thereabout, have a vaſt Trade all over the *Mediterranean*, and elſewhere.

The *French* have likewiſe a conſiderable Trade to *Barbary*, and other Countries in *Africa*, and having overcome the Difficulties with which the firſt Undertakers did for ſome Time ſtruggle; they are now acquainted in the *Southern* Ocean, and begin to be great in the *Indies*.

Now, in my Opinion, one of the greateſt Cauſes to which all theſe Advantages of the *French* in Trade is to be attributed, is the

Goodneſs of the Mercantil and Naval Laws, by which all Perſons have been encourag'd to lay out their Money in Trade, and ſo have in a little Time extraordinarily improv'd both their own and the Publick Treaſure. And having already given, in my Treatiſe of *Exchange* and Trade, a Tranſlation of the Laws by which all Differences ariſing amongſt Merchants about Tranſactions at Land are decided; I ſhall here ſubjoin the Sea Laws of *France*, which being publiſh'd in two different *Codes*, the one concerning the Maritime Affairs of the Kingdom in General, and the other relating only to the Province of *Brittany* in Particular, I ſhall allow to each of theſe a Section by it ſelf. And as I have undertaken for the Publick Satisfaction to publiſh them in the *Engliſh* Language, I hope that the Nation will be pleas'd to give a favourable Reception to a Work which may be uſeful, if improv'd.

SECT. I.

Containing an exact Tranſlation of the Sea-Laws *of* France, *eſtabliſh'd in the Year* 1681, *and Publiſh'd under the following Title.*

The ORDINANCE of LEWIS XIV. King of *France* and *Navarre*, Given at *Fontainbleau* in the Month of *Auguſt*, 1681.

Concerning the MARINE.

LEWIS, *By the Grace of God, King of* France *and* Navarre, *To all Preſent and to come, Greeting. After the ſeveral Ordinances we have made for regulating by good Laws the Adminiſtration of Juſtice, and of Our Finances, and after the Glorious Peace with which it has pleaſed God to Crown Our laſt Victories; we thought that the only thing yet wanting to compleat the Happineſs of our Subjects, was to procure them Plenty by the Eaſe and Encreaſe*

Encreaſe of Trade, which is the principal Source of the Felicity of Nations. And the Commerce of the Sea being the moſt conſiderable, We have taken Care to enrich the Coaſts of our Dominions with a good number of Harbours and Ships for the Security and Conveniency of the Sailors, who now come from all Places to the Ports of our Kingdom. But becauſe 'tis no leſs neceſſary to ſtrengthen Trade by good Laws, than to ſecure its Freedom and Conveniency by the Goodneſs of our Ports, and the Force of our Arms; and as our former Ordinances, and thoſe of our Predeceſſors, as well as the Law of the Romans, *contain very few Regulations for the Deciſion of Differences ariſing between Merchants and Sea-faring People, We judg'd (that nothing might be wanting for the good of Trade and Navigation) that it was convenient to ſettle the Laws of Maritime Contracts, which have hitherto been uncertain, to regulate the Juriſdiction of the Officers of the Admiralty, and the Principal Duties of Sea-faring People, and to eſtabliſh a good Polity in the Ports, Coaſts and Roads that are within the Extent of our Dominions. FOR THESE CAUSES, with the Advice of our Council, and of our certain Knowledge, full Power, and Royal Authority, we have ſaid, declared and ordained, ſay, declare and ordain, and our Pleaſure is as follows.*

SECT.

SECT. II.

Of the Officers of the Admiralty, and their Juriſdiction.

Of the ADMIRAL.

ARTICLE I.

JUſtice ſhall be adminiſter'd in the Admiral's Name in all the Courts of the Admiralty.

II. The Nomination of Lieutenants, Counſellors, Advocates, Attorneys, Clerks, Summoners and Serjeants, in the General and Particular Courts of the Admiralty, ſhall belong to the Admiral; but they muſt not enter into the Exerciſe thereof, till they have obtain'd our Letters of Proviſion.

III. It ſhall likewiſe belong to him to give Licenſes, Paſsports, Commiſſions, and Safe-Conducts, to the Captains and Maſters of Ships of War or Merchant-men.

IV. He may likewiſe eſtabliſh a convenient Number of Interpreters and * Maſters of the Key in our Ports: And where there is no Maſter of the Key to be ſettled, he may appoint, if 'tis neceſſary, fit Perſons for looking to the Ballaſting and Unballaſting of Ships, and to the keeping up of the Fires, Buoys, and Sea-Marks.

V. He ſhall viſit, or cauſe to be viſited by ſuch Perſons as he thinks convenient, the Ports, Coaſts, and Roads of our Kingdom.

VI. He ſhall command our principal Naval Army, according to the Orders we ſhall give him.

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* *I ſhall hereafter have occaſion to explain the Duty and Character of this Officer, call'd the* Maſter of the Key.

VII. The

VII. The Admiral Ship ſhall carry the Square White Flag upon the Main Maſt, and the four Lanthorns.

VIII. When he is near our Perſon, the Orders ſent to our Naval Armies ſhall be communicated to him.

IX. The Tenth of all Prizes taken at Sea, or upon the Shore, under the Commiſſion and Flag of *France*, ſhall belong to the Admiral, with the Tenth of all the Ranſoms.

X. All the Fines adjudg'd in the particular Courts of the Admiralty, ſhall likewiſe belong to him, with the half of thoſe adjudg'd at the * Marble Tables.

XI. He ſhall enjoy the Duties of Anchorage and Sea-Marks, and the third of all Effects taken up from the Bottom of the Sea, and of thoſe thrown aſhore, in the Caſes preſcrib'd by the preſent Ordinance.

XII. He may eſtabliſh in every Court of Admiralty, an Attorney or Receiver, for the delivering of Licenſes or Paſports, and receiving of his Dues.

XIII. We forbid all the Governours of our Provinces, Lieutenant Generals, Particular Governours of Places, and other Officers of War, to give any Licenſes, Paſsports and ſafe Conducts to go to Sea; and all Gentlemen and Lords of Manors to aſſume the Character and Quality of Admirals in their own Lands, and to exact any Duty under that Pretence, or in any manner to incroach upon the Office of the *Admiral*.

XIV. We declare moreover, That we have reſerv'd to our ſelves, the Nomination and Proviſion of Vice-Admiral, † Lieutenant-Generals and Flag-Officers; of the Captains, Enſigns and Pilots of our Ships, Frigats and Fire-ſhips; of the Captains and

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* *By that Term is meant the Higher Courts of Admiralty, as by* Particular *is meant the Inferiour Courts.*

† *By the Lieutenant-Generals is here meant Preſidents of the High Courts of Admiralty, which are call'd in that Country,* Lieutenans Generaux de l'Amirauté.

Offi-

Officers of the Ports and Coaſts; of the Intendant, Commiſſaries, and Comptrollers General and Particular, and Keepers of Magazines, and generally of all other Officers of War and Finances, having their Function and Employments in the Marine; together with every thing concerning the building and refitting of our Ships, the buying of all Proviſions and Munitions for the Magazine and Maritime Preparations; and the Ballance of the Accounts of the Monies laid out by the Treaſurers of the Marine.

SECT. III.

Of the Power of the Judges of the Admiralty.

ARTICLE I.

THE Judges of the Admiralty ſhall take Cognizance preferably to all others, and between all Perſons of whatever Quality or Condition, even tho' Privileg'd, *French* and Strangers, as well in demanding as defending of all that concerns the Conſtruction, Tackle and Furniture, Arming, Victualling and Equipping, Sale and Adjudication of Ships.

II. We declare them competent Judges of all Actions, proceeding from Charter Parties, Fraighting, Bills of Lading, Fraight Engagement and Wages of Seamen, and Victuals furniſhed to them by Order of the Maſter, during the Equipment of Ships; together with Policies of Inſurance, Obligations of Bottomree, and for the Return of a Voyage; and generally of all Contracts, concerning the Commerce of the Sea, notwithſtanding all Submiſſions and Privileges to the contrary.

III. They ſhall likewiſe take Cognizance of Prizes taken at Sea; Wracks, Shipwracks and Stranded Ships; of Ejections and Contributions, Avaridge and Damages happen'd to Ships and their Lading; and alſo of Inventories and Deliverances of Effects left in Ships by Perſons dying at Sea.

IV. They

IV. They ſhall likewiſe take Cognizances of the Dues for Licenſes, Thirds, Tenths, Sea-Marks, Anchorage, and others belonging to the Admiral; and of thoſe which ſhall be levied or pretended by the Lords of Manors, or other particular Perſons near the Sea, upon the Fiſhery or Fiſh; and upon Goods or Ships going out or coming into Ports.

V. The Cognizance of Fiſhing in the Sea and Salt Water, and the Mouths of Rivers, ſhall likewiſe belong to them, and likewiſe that of * Parks and Fiſheries; and they ſhall alſo take Cognizance of the Quality of Nets and Thread, and of the Buying and Selling of Fiſh upon the Shoar, or in the Boats, Ports or Harbour.

VI. They ſhall likewiſe take Cognizance of Damages done by Ships to the Fiſheries, either upon the Coaſts or in Navigable Rivers, and of thoſe that the Ships ſhall receive; and likewiſe of the Ways appointed for hawling up of Ships coming from Sea, if there be no Regulation, Title or Poſſeſſion, to the contrary.

VII. They ſhall alſo take Cognizance of the Damages done to the Keys, Banks, Moles, Paliſadoes, and other Works, caſt up againſt the Violence of the Sea; and ſhall take Care that the Depths of the Ports and Roads be preſerv'd and kept clean.

VIII. They ſhall take up the Bodies of Drown'd Perſons, and ſhall draw up a † Verbal Proceſs of the Condition of the Corpſes found at Sea, and on the Sand, or in the Ports; as likewiſe of the Drowning of Mariners ſailing in Navigable Rivers.

IX. They ſhall aſſiſt at the Muſters and Reviews of the Inhabitants of the Pariſhes ſubject to the Sea-Watch, and ſhall take Cognizance of all Differences ariſing upon that Account; and likewiſe of Crimes committed by thoſe that are upon the Guard of the Coaſts, while they are under Arms.

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* *Theſe are Places made upon the Shoar for the Conveniency of Fiſhing.*

† *A Verbal Proceſs is the Report of any Judge or Officer of Juſtice of what he has ſeen or heard in any Matter, drawn up in Writing.*

X. They ſhall alſo take Cognizance of Piracies and Robberies, and Deſertion of Seamen; and generally, of all Crimes and Offences committed upon the Sea, or the Coaſts, and in the Ports and Harbours,

XI. They ſhall receive the Maſter-Carpenters, Caulkers, Rope-makers, Block-makers, Sail-makers, and other Artificers for Building of Ships, and making their Tackle and Furniture, in Places where there is Freedom; and they ſhall take Cognizance of Miſdemeanours committed by them in their Arts.

XII. † Pardons granted to *Plebeians* for Crimes, of which the Cognizance belongs to the Officers of the Admiralty, ſhall be directed and judged in the Courts of the Admiralty belonging to the Juriſdiction of our Courts of Parliament.

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† Note, *For the perfect Underſtanding of this Article, 'tis fit to acquaint the Reader of two Things; which, being uſual in* France, *and unuſual in* England, *may render the Senſe of the Thing obſcure to the* Engliſh *Reader.*

In the firſt Place, they obſerve with a great deal of Nicety the Diſtinction between the two Terms of Nobleſſe *and* Roturiers; *When they ſay that any Perſon is* Noble, *they mean that he's a Gentleman; and all other Perſons of any Station whatſoever (excepting ſuch as enjoy Poſts in the Army, in the Courts of Judicature, or in the Church, which gives them the Character of Gentlemen) they call* Roturiers; *meaning Perſons that have not Patents or Letters of Nobility (as they call 'em) authorizing them to bear a Coat of Arms, and aſſume the Title and Character of Gentlemen; which Term I could not ſupply with a more proper Word, than that of* Plebeian.

In the next Place, 'tis fit to give ſome Account of the Method us'd in France *of ſuing for Pardons, and having them Recorded, (or, as they call it, Juſtified or Verified) in the proper Courts; which if the Perſon obtaining the Pardon does neglect, he may be taken up and ſuffer the Sentence pronounc'd againſt him, whether of Death or any other Puniſhment, as if he had no Pardon.*

In France *when any Man commits a Crime, and flies from Juſtice, he's publickly ſummon'd to make his Appearance by a certain Day appointed; which if he fails to do, the Court proceeds at the Inſtance of the Plaintiff, or of the Attorney-General for the King,*

or

or of both, to hear the Evidences and try the Cauſe; and the Indictment being prov'd, the abſent Criminal is condemn'd and executed in Effigie; *after which, if he happens to be taken, the former Sentence is immediately executed, without any farther Judgment, except the Criminal can make ſome very ſufficient Objections againſt it.*

But ſuppoſing that either before or after Sentence pronounc'd, the abſent Criminal makes his Application to the King for obtaining of a Pardon; with his Petition he muſt likewiſe cauſe to be preſented to his Majeſty a true and ingenuous Account of the Matter of Fact, in which he muſt rather exaggerate than extenuate his own Guilt; for the leaſt Appearance of Diſingenuity may prove fatal to the Offender.

The Thing being plainly laid open before the King, if his Majeſty thinks that the Criminal merits Mercy, his Pardon is granted him; but always includes a Suppoſition, That the Circumſtances of the Action were no other than the Perſons acting in his Behalf had repreſented them to be: For a Proof of which, the Perſon pardon'd, muſt, within a certain Time appointed, repair to the Diſtrict where the Fact was committed, and there voluntarily ſurrender himſelf a Priſoner, in the Goal belonging to the proper Court, till his Trial comes on; when, if it appears that the Circumſtances of the Fact were ſuch as are made mention of in the King's Letters, or Remiſſion, his Pardon is recorded, and he abſolv'd from all Capital or Corporal Puniſhment, and condemn'd only to pay the Coſt and Charges of the Trial, together with a Sum of Money (which they call Dommages *and* Interêts) *for the Loſs of Time and Buſineſs: And if the Crime was Man-ſlaughter, a competent Allowance is made to the Widow or Heir, for the Loſs of the Husband or Relation, according to the Quality of the Defunct, and the Circumſtances of his Buſineſs and Employment.*

But if, on the other hand, the Plaintiff makes it appear, That the Circumſtances of the Fact were not really ſuch as they had been repreſented at Court to be, the Pardon is laid aſide, and Sentence is pronounc'd and executed againſt the Delinquent, as if there had never been any Pardon. In which Caſe Satisfaction is likewiſe made to the Plaintiff for Coſts, Charges and Damages, out of the firſt and readieſt of the Criminal's Effects, if any can be found; and if otherwiſe, the Party concern'd muſt ſit down with the Loſs; which is what is here meant by the judging of Pardons granted to Plebeians. *For in* France *the Gentry enjoy a certain Privilege, by Virtue of which they have a Right to be try'd in what they call the* Great Chamber *of*

their Courts of Parliament, which are Sovereign Judicatures, of which we have no Reſemblance in England.

However, no Man committing a Crime in France, *and obtaining a Pardon, whether Gentleman or* Plebeian, *is acquitted in Law 'till his Pardon be verified and recorded in the proper Court.*

XIII. The Officers of the General Courts of the Admiralty at the Marble Tables, ſhall take Cognizance in the firſt Suit of all Civil as well as Criminal Matters, contain'd in the preſent Ordinance, when there is no particular Courts in the Place of their Eſtabliſhment; and likewiſe by Appeal, except in Caſes wh e there would happen Corporal Puniſhment, in which our Ordinance of 1670 ſhall be executed.

XIV. They may bring before themſelves from the inferior Judges, the Cauſes exceeding the Value of Three Thouſand Livres, when the Matter is laid before them by Appeal from any Decree or *Interlocutor* given in the firſt Suit.

XV. We forbid all Provoſts, Lords of Manors, Magiſtrates, Bailiffs, Seneſchals, Preſidials and other Judges, and Conſuls, the Judges of our Courts of Requeſts, and of the Green Cloth, and our Grand Council, to take any Cognizance of the above-mention'd Caſes, Circumſtances and Suits; nor ſhall our Courts of Parliament take Cognizance thereof in the firſt Suit: And We forbid all Merchants, Mariners, and others, to proceed before any other Judge in ſuch Caſes, under Pain of an Arbitrary Fine.

NOTE, *Moſt of the Officers and Judges above-named being unknown in* England, *it would be neceſſary to give a more particular Character of them, if all Judges in general were not here forbid to encroach in any Manner upon the Juriſdiction of the Admiralty.*

SECT.

SECT. IV.

Of the King's Lieutenants, Counſellors, Advocates and Attorneys, in the Courts of the Admiralty.

ARTICLE I.

THE Lieutenants, Counſellors, and our Advocates and Attorneys in the General and Particular Courts of the Admiralty, ſhall not be receiv'd 'till they have taken their Degrees, and have frequented the Bar during the Time appointed by our Ordinances; the Lieutenants of the Superior Courts being aged Twenty ſeven, and thoſe of the other Courts, our Advocates and Attorneys, five and Twenty.

II. The Lieutenants-General and Particular, the Counſellors, Advocates, and Attorneys, in the Courts belonging to the Juriſdiction of our Parliaments, ſhall be receiv'd in our Courts of Parliament; and the Lieutenants, Advocates and Attorneys, in the particular Courts, ſhall be receiv'd in the General Courts.

III. The Lieutenants, Counſellors, Advocates, and Attorneys, in the Superior Courts of the Admiralty, ſhall have their Cauſes committed to the Courts of Requeſts of our Parliaments, in the Diſtrict in which they are eſtabliſh'd; and thoſe of the Inferior Courts, before our Bailiffs and Seneſchals; and they, as the other Judges Royal, may put in Execution the Decrees of our Courts of Parliament, and all Commiſſions of *Chancery* concerning Matters belonging to them.

IV. The Particular Lieutenants ſhall be preſent at the Audiences, and perform all requiſite and neceſſary Acts in Caſe of the Abſence, or Sickneſs, or of any Exception againſt the Lieutenants General and Principal, who ſhall not have Power to depute Advocates to perform the Functions of their Offices, to the Prejudice of the Particular Lieutenants and Counſellors.

V. Our

V. Our Attorneys in the Courts of the Admiralty ſhall be oblig'd inceſſantly to make Enquiry after and proſecute all Criminals under their Juriſdiction, and to acquaint our Attorney-General therewith, under Pain of being ſuſpended from their Offices for the firſt Fault, and depriv'd thereof in Caſe of a Relapſe.

VI. They ſhall take the Concluſion of all Affairs, where We, the Admiral, the Publick, Minors, or abſent Perſons, are concern'd; and in Caſe of Need, they ſhall, as Graduates, be call'd to the Deciſion of other Affairs, preferably to the Advocates and Practitioners upon the Place.

VII. They ſhall be oblig'd to draw up every Month a Liſt of the Appeals that have been ſignified to them, againſt the Sentences in which We, the Admiral, or the Publick, has any Intereſt; which they ſhall forthwith ſend to our Attorneys, at the Courts whither the Suits are carried with an inſtructive Brief.

VIII. They ſhall have four Regiſter-Books, of which the firſt ſhall contain their Concluſions, as well Preparatory as Definitive; the ſecond a Liſt of all the Strandings, Wrecks, Shipwrecks, and generally of all Things whatſoever found at Sea, or upon the Sands, together with the Sails, Adjudication or Repleives, and of the Charges expended at Shipwrecks; the third, the Scroll of the Fines adjudg'd upon their Concluſions, an Account of the Deeds communicated to them concerning the Duties of Anchorage, Fiſhing, * Sea-Ware, *&c.* the Proteſtations enter'd in their Hands, and the Summonſes given to Strangers, and the fourth ſhall contain the Informations, which ſhall be ſign'd by the Accuſers, if they can write; and if not, by their Attorneys.

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* *The Term which I here render* Sea-Ware, *is in the* French Varec, *or* Varech, *and implies a Sort of an Herb growing upon Rocks in the Sea, from which 'tis frequently waſht off and caſt aſhore by the Waves; which has given Occaſion to the Inhabitants of the Coaſts of* Normandy, *to call every Thing caſt aſhore by the Sea, whether of its own Growth, or Pieces of Ships,* &c. Varech; *and thence the Duties which the Lords of the neighbouring Manors pretend upon Goods caſt aſhore by the Tide, is call'd* Droit de Varech; *tho' in* Britanny *they call that Herb* Gouesmon, *and all about* Rochel, *in the Country of* Aunis, *they call it* Sar.

IX. We

IX. We forbid all Officers of the Admiralty to exact of the Fiſhermen, Mariners, or Merchants, Fiſh or other Goods, or to receive any, under Pretence of Payment of their Duties, under Pain of being Interdicted, and of 500 Livres Fine.

X. We likewiſe forbid them to take, directly or indirectly, by themſelves or by Perſons interpos'd, any Part or Intereſt in the Duties of the Sea-Marks, Anchorage, and other Things of which the Cognizance belongs to them; under the Pain of being depriv'd of their Imployments, and a Thouſand Livres Fine.

SECT. V.

Of the Clerks of the Admiralty.

ARTICLE I.

THE Clerks of the General and Particular Courts of the Admiralty ſhall be aged Twenty five Years, and received after Information of their Life; Manners and Religion.

II. Before the Clerk enter into the Exerciſe of his Imployment, the Lieutenant ſhall make, in Preſence of our Attorney or Advocate, a Liſt or Inventory of all the Records, Minutes, and Papers left in the Office.

III. The Minutes of the Verbal Proceſſes, Inventories, Enqueſts, Informations, Examinations, Declarations, and ſuch other Acts, ſhall be written down by the Clerk, or his Servant, to whom an Oath ſhall be adminiſtred: And the Clerk ſhall not part with any of the aforeſaid Papers, without an Order from the Judge, under Pain of an Arbitrary Fine, and Payment of the Damages and Intereſts of the Party concern'd, and likewiſe of Interdiction.

IV. They ſhall be oblig'd to ſet down under the Orders they deliver, the Fees and Dues of the Officers, and thoſe of their own Office, under Pain of making Reſtitution of the Double, and Fifty Livres Fine.

V. We

V. We enjoin the Clerk to have ſeven Regiſter Books, quoted and mark'd on every Leaf by the Judge, and therein to write all the Acts in Order, without leaving any Blank, under Pain of five Hundred Livres Fine, and exemplary Puniſhment, if he is guilty.

VI. The firſt ſhall ſerve for Cauſes in the Audience, and the ſecond for Sentences given upon Proceſſes in Writing.

VII. The third ſhall ſerve for the Recording of Edicts, Declarations, Ordinances, Decrees, Proviſions, Commiſſions, and Inſtallations of Officers, Receptions of Maſters and Pilots, and of the Rights of ſuch as pretend any Duties upon Ships, Goods, and Fiſheries.

VIII. The fourth ſhall contain the Licenſes, and the fifth the Reports of Captains and Maſters of Veſſels, together with the Declarations of Prizes, Shipwrecks, and other Things found in the Sea, and all Acts done in Conſequence thereof.

IX. The ſixth ſhall ſerve for the Depoſitory of all the Proceſſes which ſhall be produc'd, and of all that ſhall be conſign'd in the Office.

X. And the ſeventh ſhall contain a Liſt of the Maſters, Seamen, Fiſhers and Mariners, within the Juriſdiction of the Court, with the Number, Burthen and Fabrick of the Ships belonging to the Merchants living within that Diſtrict.

XI. We forbid the Clerks to communicate the Charter-Parties, Bills of Lading, Letters of Addreſs, or other Papers found in Ships taken or run aground, nor the Verbal Proceſſes, Informations, Interrogations, and other ſecret Proceedings or Inſtructions, concerning the Prizes or Ships run aground, without the Order of the Judge, under the Pain of Three Hundred Livres Fine, and the Damages and Intereſts of the Parties concern'd; and likewiſe of being proceeded againſt extraordinarily.

XII. They ſhall be oblig'd to ſend in the Beginning of every Year to the Clerks Office of the Juriſdiction, whither the Appeals from their Court are carry'd, an Extract of their Criminal Regiſters, and to acquaint our Attorneys therewith.

XIII. They

XIII. They ſhall likewiſe be oblig'd to deliver to the Admiral's Receiver, every ſix Months, a Scroll of the Fines that have been adjudg'd at their Court.

XIV. The Clerk ſhall alſo be oblig'd to put up in the moſt apparent Place of his Office a Writing, in which ſhall be inſerted the Fees due for every Order of the Court, *&c.*

XV. The Clerks leaving their Employments, their Widows, and Heirs, ſhall be oblig'd, in time to come, to deliver into the Office their Regiſters and Minutes, with all other Papers they have been entruſted with; to which they may be conſtrain'd by Impriſoment, or any other Means.

SECT. VI.

Of the Cryers of the Court, Searchers, and other Sergeants of the Admiralty.

ARTICLE I.

THE Cryers of the Court, Searchers, and other Sergeants of the Admiralty, ſhall not be receiv'd before they are arriv'd at the Age of Five and Twenty, and have been examin'd upon the Articles of the Ordinance concerning the Functions of their Employments, Information having firſt been made of their Life, Manners and Religion; and they ſhall likewiſe be oblig'd to give Bail for three hundred Livres, which ſhall be receiv'd by our Attorney in Preſence of the Lieutenant.

II. The Sergeants Searchers, ſhall ſearch the Ships at their Arrival and Departure, and ſhall deliver their Verbal Proceſſes to the Maſters, under the Pain of all Coſts, Damages, and Intereſts, happening by reaſon of the Delay thereof.

III. They ſhall obſerve in ſearching with what Goods the Ships are laded, what their Ship's Company is, and what Paſſengers

they carry; and ſhall mention in their Verbal Proceſſes the Day of the Arrival and Departure of the Ships, and what they receiv'd for their Hire.

IV. They ſhall keep a Record quoted and flouriſh'd on every Page by the Lieutenant of the Court, in which Brief mention ſhall be made of the Contents of their Verbal Proceſſes of the Search, and the Record ſhall be cloſed by the Judge at the End of every Year.

V. They ſhall oppoſe the carrying off of Stolen or Countreband Goods, which they ſhall ſeize, and make their Report to the Judge, under the Pain of three hundred Livres Fine, and exemplary Puniſhment.

VI. They ſhall not ſuffer the Maſter to put to Sea, without a Paſsport from the Admiral well and duly recorded; or to unlade any Goods, without having made a Declaration.

VII. The Maſters, Captains * and Patrons ſhall be oblig'd to ſuffer the Searching of their Ships, under the Puniſhment of an Arbitrary Fine.

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* *The Term* Patron *is us'd in ſome Places of* France *inſtead of* Maſter, Captain, *or* Commander.

SECT.

SECT. VII.

Of the Receiver of the Admiral.

ARTICLE I.

THE Receiver of the Admiral ſhall be oblig'd to get his Commiſſion Recorded in the Clerk's Office, of the Court of Admiralty where he is eſtabliſhed.

II. He ſhall likewiſe be oblig'd to keep a Regiſter quoted and flouriſh'd by the Judge, in which he ſhall enter his Licences.

III. The Receiver ſhall be by our Attorney call'd to be preſent at the taking of the Inventory of Effects ſav'd from Shipwrack, or taken upon our Enemies, and ſhall not pretend any Fees for his Aſſiſtance there.

IV. The Petitions for obtaining Replevies for Goods ſav'd from Shipwrack, or taken, ſhall be imparted to him, as well as all others in which the Admiral is any ways concern'd.

V. We enjoin the Admiral's Receiver to keep his Office open, and to be there every Day for the Deliverance of Licences and Paſsports, from eight of the Clock to eleven in the Forenoon, and from two to five in the Afternoon; and to under-write upon every Licence he delivers, what he receives; under the Pain of fifty Livres Fine, for the Benefit of the Hoſpital of the Place of his Eſtabliſhment.

SECT. VIII.

Of Interpreters and Brokers, Guides of Maſters of Ships.

ARTICLE I.

THE Interpreters ſhall not exerciſe the Functions of their Commiſſions, till they are Recorded in the Courts of their Eſtabliſhment, and till they have given Proofs of their Capacity, and taken the Oath before the Lieutenant of the Court.

II. They ſhall interpret preferably to all others within the Juriſdiction of the Admiralty, Declarations, Charter-Parties, Bills of Lading, Contracts, and all other Acts which it ſhall be neceſſary to tranſlate.

III. They ſhall likewiſe interpret for all Strangers, as well Maſters of Ships as Merchants, Mariners, and other Sea-faring Perſons.

IV. The Tranſlations ſhall not be relied upon, except the Parties have agreed about the Interpreters, or they have been nam'd by the Judges.

V. The Interpreters agreed to, or nam'd, ſhall take the Charge at the Office, of the Writings which they are order'd to tranſlate, after they have been flouriſh'd by the Judge, they ſhall be oblig'd to return them, with the Tranſlations, and in the Time that ſhall be preſcrib'd them; nor ſhall they exact or receive any greater Fees, than thoſe which ſhall be order'd them.

VI. They may likewiſe ſerve for Factors to Foreign Merchants in their Trade.

VII. No Perſon ſhall exert the Function of a Broker, Guider of Maſters of Ships, till he is matriculated at the Office of the Admiralty,

miralty, upon an Atteſtation given by four eminent Merchants of the Place, of his Capacity and Probity.

VIII. The Interpreters and Brokers ſhall keep a Record quoted and flouriſhed upon every Leaf, by the Lieutenant of the Admiralty, in which they ſhall enter the Names of the Maſters, and the Ships for which they ſhall be employed, the Day of their Arrival, the Burthen and Cargo of the Ships, with an Account of the Duties and Avariges that have been paid, and of the Fees they have receiv'd, under Pain of Interdiction; and the whole ſhall be ballanc'd and ſign'd upon the Regiſter by the Maſters.

IX. We forbid the Interpreters and Brokers to enter in their Accounts, any other or greater Duties than thoſe they have effectually paid, and to cauſe or ſuffer to be paid by the Maſter by whom they are employ'd, any thing elſe than what is lawfully due, under Pretence of Gratification, on the Pain of Reſtitution and an Arbitrary Fine.

X. They ſhall be oblig'd to deliver for the Maſters that employ them, to the Officers eſtabliſh'd for that Purpoſe, the neceſſary Declarations, under Pain of anſwering in their own Names the Condemnations, which may intervene againſt the Maſters who neglect to do it.

XI. Moreover, we forbid the Brokers and Interpreters, under Pain of thirty Livres Fine, to go aboard of Ships, either in the Road, Canals or Navigable Rivers, to intrude upon the Maſters, Captains or Merchants, who ſhall chuſe ſuch as they think convenient.

XII. They ſhall reſide in the Places of their Eſtabliſhment, under Pain of loſing their Commiſſions.

XIII. Interpreters and Brokers muſt drive no Trade upon their own account, nor buy any Goods of the Maſters they ſerve; under Pain of Confiſcation of the Goods, and an Arbitrary Fine.

XIV. Maſters and Merchants that would do their own Buſineſs themſelves, ſhall not be oblig'd to make uſe of Brokers.

XV. We forbid Interpreters and Brokers to ſet a Price upon Goods and Commodities arriving at the Ports where they reſide, under Pain of exemplary Puniſhment.

SECT.

SECT. IX.

Of the Profeſſor of Hydrography.

ARTICLE I.

OUR Pleaſure is, That in the moſt conſiderable Ports of our Kingdom, there be Profeſſors of *Hydrography*, to teach publickly Navigation.

II. The Profeſſors of *Hydrography* muſt underſtand, and muſt teach their Scholars the Art of Drawing, that they may be capable to take the Figures of Ports, Coaſts, Roads, Mountains, Trees, Towers, and other things ſerving for Marks to Harbours and Roads, and to make Maps of the Countries they may diſcover.

III. They ſhall, at leaſt four Days every Week, keep their open Schools, in which they ſhall have Maps, * *Ruttiers*, Globes, Spheres, Compaſſes, the Inſtrument called † *Jacob's-Staff*, Aſtrolabes, and all other Inſtruments and Books neceſſary for their Art.

IV. The Directors of the Hoſpitals of the Towns where there are Schools of *Hydrography*, ſhall be oblig'd to ſend thither every Year, two or three of the Boys that are under their Care, and to furniſh them the Books and Inſtruments neceſſary for learning Navigation.

V. The Profeſſors of *Hydrography* ſhall carefully examine the Journals of Navigation, depoſited in the Office of the Admiralty in the Place of their Eſtabliſhment, and ſhall correct them in the Preſence of the Pilots who have err'd in their Computation.

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* *By this Term is meant a Directory for the Courſe of a Ship.*

† *This is a Mathematical Inſtrument (call'd by the* French Arbalete) *for meaſuring the Height of the Stars upon the* Horizon.

VI. They

VI. They ſhall not retain above one Month, the Journals which ſhall be imparted to them by the Clerks, whom we enjoin to do it *Gratis*, under Pain of Interdicti on.

VII. We declare the Profeſſors of *Hydrography*, actually teaching, to be free from Watch and Ward, Truſteeſhip and Guardianſhip, and all other publick Offices.

VIII. We forbid them to be abſent from the Places of their Eſtabliſhment, without Licence from the Admiral, or from the Mayor and Aldermen that hire them, under Pain of Deprivation of their Sallaries.

SECT. X.

Of the Conſuls of the French *Nation in Foreign Countries.*

ARTICLE I.

NO Perſon may call himſelf Conſul of the *French* Nation in Foreign Countries, without having our Commiſſions, which ſhall not be granted to any under the Age of thirty Years.

II. The Conſulſhip becoming Vacant, the moſt Ancient of the Deputies of the Nation in Office for the Time, ſhall exert the Functions of the Office of Conſul, till we take Order about it.

III. He that ſhall obtain our Letters to be Conſul in the Sea-port Towns and Places of Trade, in the *Levant*, and other Places of the *Mediterranean* under the Domination of the Grand Seignior, ſhall cauſe Intimation thereof to be made in the Aſſembly of the Merchants, of the Place of his Eſtabliſhment, and cauſe them to be recorded in the *Chancery* and Offices of the Conſulſhip, and in the Offices as well of the Admiralty, as of the Chamber of Trade of *Marſeilles*; and ſhall take the Oath mentioned in his Patent.

IV. We

IV. We enjoin the Conſuls to call to the Aſſemblies, which they ſhall hold for the Affairs of Commerce, and of the Nation in General, all the *French* Merchants, Captains and Patrons upon the Place, who ſhall be oblig'd to aſſiſt thereat, under Pain of an Arbitrary Fine, applicable to the Redemption of Captives.

V. The Artificers and Seamen ſettled in thoſe Ports, ſhall not be admitted to ſuch Aſſemblies.

VI. The Reſolutions of the Nation ſhall be ſign'd by thoſe which have aſſiſted at them, and put in Execution by the Order of the Conſul.

VII. The Deputies of the Nation ſhall be oblig'd, after their Time is expir'd, to be accountable to the Conſul for the Monies they have handled, and for their Intermiſſions for the Common Intereſt, in Preſence of the new Deputies, and the moſt eminent Merchants.

VIII. The Conſul ſhall ſend every three Months to the Lieutenant of the Admiralty, and the Deputies of Commerce of *Marſeilles*, a Copy of the Deliberations taken in the Aſſemblies, and of the Accounts given in by the Deputies of the Nation, to be imparted to the Aldermen. and conſider'd by them and the Deputies of Commerce, if need be.

IX. The Conſuls ſhall keep exact and faithful Memoirs of the important Office of their Conſulſhip, and ſhall ſend them once a Year to the Secretary of State, who has the Management of Maritime Affairs.

X. We forbid the Conſuls to borrow, in the Name of the Nation, any Sums of Money of *Turks*, *Moors*, *Jews*, or other Perſons, under any Pretence whatſoever; and even to aſſeſs thoſe of the Nation, except it be by Virtue of a General Reſolution in Writing, which ſhall contain the Reaſons and the Neceſſity of it; if otherwiſe, they ſhall pay it themſelves.

XI. We forbid moreover, under Pain of Extortion, to levy greater Duties than thoſe which ſhall be allow'd them, or to exact any at all of the Maſters and Patrons of Ships, who ſhall only come

come to an Anchor in the Ports and Roads of the Places of their Eſtabliſhment, without Lading or Unlading any Goods.

XII. And as to their Juriſdiction, as well in Matters Criminal, as Civil, the Conſuls ſhall conform themſelves to the Cuſtoms, and the Treaties made with the Sovereigns of the Places where they reſide.

XIII. The Deciſions of the Conſuls ſhall be executed by Proviſion, in Matters Civil, in giving Bail; and definitively, and without Appeal, in Criminal Matters, if there be no Corporal Puniſhment to be inflicted; the whole providing that they be given in Preſence of the Deputies and Four Eminent Men of the Nation.

XIV. And where the Crime deſerves a Corporal Puniſhment, they ſhall prepare the Proceſs, and ſend it with the Criminal in the firſt Ship belonging to any of our Subjects, returning into our Kingdom, to be judg'd by the Officers of the Admiralty, of the firſt Port where the Ship ſhall break Bulk.

XV. The Conſuls, after making Enquiry, and with the Advice of the Deputies of the Nation, may baniſh out of the Places of their Eſtabliſhment, the *French* that are of a ſcandalous Life and Converſation. We enjoin our Captains and Maſters to imbark them upon the Order of the Conſul, under Pain of Five Hundred Livres Fine, applicable to the Redemption of Captives.

XVI. The Conſuls may put in, as well for the Exerciſe of the *Chancery*, as for the Execution of their own Sentences, and other Acts of Juſtice, ſuch Perſons as they think capable of thoſe Poſts; to whom they ſhall adminiſter an Oath, and for whom they ſhall be in a Civil Senſe reſponſible.

XVII. The Fees for the Acts and Orders of the *Chancery* ſhall be regulated by them, with the Advice of the Deputies of the *French* Nation, and of the moſt ancient Merchants; which ſhall be put up in the moſt apparent Place of the Office; and an Extract thereof ſhall be immediately ſent by every Conſul to the Lieutenant of the Admiralty, and the Deputies of Trade at *Marſeilles*.

XVIII. The Appeals from the Sentences of the Conſuls, eſtabliſh'd as well in the Ports of the *Levant*, as upon the Coaſts of *Africa* and *Barbary*, ſhall be carry'd before the Parliament of *AIX*; and all the others, to the Parliaments neareſt to the Places where the Sentences are given.

XIX. In Caſe of Conteſtation between the Conſuls and the Merchants, either in the *Levant*, or upon the Coaſts of *Africa* and *Barbary*, for their private Affairs, they ſhall have Recourſe to the Court of Admiralty of *Marſeilles*.

XX. The Conſul ſhall be oblig'd to take an Inventory of the Goods and Effects of ſuch as die without Heirs upon the Place, and alſo of the Effects ſav'd from Shipwreck; with which he ſhall charge the * Chancellor under the Inventory, in the Preſence of Two eminent Merchants who ſhall ſign it

XXI. But if the Defunct had conſtituted an Attorney to receive his Effects, or if any Factor preſent himſelf with Bills of Lading for the Goods that are ſav'd, the Effects ſhall be deliver'd to them.

XXII. The Conſul ſhall be oblig'd to ſend forthwith a Copy of the Inventory of the Goods of the Defunct, or the Effects ſav'd from Shipwreck, to the Officers of the Admiralty and the Deputies of Trade at *Marſeilles*, whom we enjoin to acquaint the concern'd.

XXIII. No Inſtruments written in Foreign Countries, where there are Conſuls, ſhall be of any Value, if they be not made Authentick by them.

XXIV. Teſtaments receiv'd by the Chancellor, within the Extent of the Conſulſhip, and in the Preſence of the Conſul and Two Witneſſes, and ſign'd by them, ſhall be deem'd Authentick.

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* *The Terms of* Chancellor *and* Chancery, *are not here to be underſtood in the Senſe in which they are commonly taken in* England: *For by it here is only meant a Sort of a Clerk or Inferior Officer under the* French *Conſuls in Foreign Towns of Trade.*

XXV. Po-

XXV. Policies of Insurance, Obligations of Bottomree, or for the Return of Voyages, and all other Maritime Contracts, may be past in the *Chancery* of the Consulship, in Presence of Two Witnesses, by whom they shall be sign'd.

XXVI. The Chancellor shall have a Register quoted and flourish'd on every Leaf by the Consul, and by the most Ancient of the Deputies of the Nation; in which he shall write all the Deliberations and Acts of the Consulship, record the Policies of Insurance, the Obligations and Contracts which he shall receive, the Bills and Policies of Lading which shall be deposited in his Hands by Mariners and Passengers, the Balance of the Deputies Accounts, and the Testaments and Inventories of the Effects left by Persons deceas'd or sav'd from Shipwreck, and generally all Acts and Proceedings, which in Quality of Chancellor he shall make.

XXVII. Masters of Ships, arriving at Ports where there are *French* Consuls, shall be oblig'd to shew them their Passports, to give them an Account of their Voyages, and at their Departure to take a Certificate of them, of the Time of their Arrival and Departure, and of the Quality and Condition of their Lading.

SECT. XI.

Of Passports and Declarations.

ARTICLE I.

NO Vessel shall go out of any Port of our Kingdom to put to Sea, without a Passport from the Admiral, recorded at the Office of the Admiralty of the Place from whence he departs, under Pain of Confiscation.

II. However, Masters shall not be oblig'd to take Passports to return to the Place of their Abode, if it be within the District of the Admiralty where they unladed.

III. The Paſsport ſhall contain the Name of the Maſter of the Ship, her Burthen and Lading, the Places from whence ſhe departs, and whither ſhe is bound.

IV. All Maſters and Captains of Ships ſhall be oblig'd to make their Declarations to the Lieutenant of the Admiralty, within four and twenty Hours after their Arrival at the Port, under Pain of an Arbirrary Fine.

V. The Maſter with his Declaration ſhall preſent his Paſsport, and declare the Place and Time of his Departure, the Burthen and Lading of his Ship, the Courſe he has ſteer'd, the Hazards he has run, the Diſorders happen'd in his Ship, and all the conſiderable Circumſtances of his Voyage.

VI. If during a Voyage, a Maſter is forc'd to put into any Port, he ſhall declare to the Lieutenant of the Admiralty the Reaſon of his putting in, and ſhall ſhow him his Paſsport, without being oblig'd to take out another to put to Sea again.

VII. The Declarations may be verify'd by the Oath of the Ship's Company, without Prejudice of any other Proofs.

VIII. The Officers of the Admiralty ſhall not conſtrain Maſters to verify their Declaration; but ſuch as are not verify'd, ſhall not be of any Force for the unlading of Ships.

IX. No Maſter ſhall, upon his Arrival, unlade any Goods without firſt making his Declaration, except in Caſe of imminent Danger, under Pain of an Arbitrary Fine and Corporal Puniſhment againſt the Maſter, and of Confiſcation of the Goods againſt the Merchants that unlade them.

X. The Offices of the Admiralty ſhall always be open from eight to eleven of the Clock in the Forenoon, and from two to ſix in the Afternoon, for the Regiſtrationof Paſsports, and Reception of Declarations.

SECT.

SECT. XII.

Of Adjournments and Delays.

ARTICLE I.

ALL Summons given to Maſters and Mariners at their Ships during the Voyage, ſhall be as valid as if they had been given at their Dwelling Places.

II. In Matters where Strangers and Foreigners may be Parties, and in thoſe which concern the Tackle, Victuals, Furniture, and Refitting of Ships ready to Sail, and other Proviſional Matters, the Summons ſhall be given them from Day to Day, and Hour to Hour, without any Neceſſity for a Commiſſion from the Judge, and the Matter may be immediately decided.

III. The Court of Admiralty, in the firſt Suit, ſhall meet for ordinary Buſineſs Three Days a Week; and for the proviſional Cauſes, and thoſe of Foreigners and Strangers, from Day to Day, and Hour to Hour: And the Parties may plead themſelves, without being oblig'd to make Uſe of either Advocate or Attorney.

SECT.

SECT. XIII.

Of Preſcriptions and Exceptions at Law.

ARTICLE I.

THE Maſters and Patrons ſhall not have Power at any Time to preſcribe the Veſſel to the Prejudice of the Proprietors that have eſtabliſh'd them.

II. Nor ſhall they be receiv'd to make any Demand for their Freight, nor the Officers, Seamen, nor other Perſons, for their Wages and Hire, one Year after the Voyage is ended.

III. Thoſe that furniſh the Wood and other Neceſſaries for the Conſtruction, Equipment, and Victualling of Ships, nor the Carpenters, Caulkers, and other Artificers imploy'd for the Building and Refitting thereof, ſhall not be receiv'd to make any Demand for the Price of their Goods, nor for their Wages or Hire, after the Expiration of one Year, from the Time of the Delivery of their Goods and Work.

IV. Nor ſhall any Action be receiv'd againſt the Maſters, Patrons, and Captains of Ships, for Goods laded aboard their Ships, a Year after the Accompliſhment of the Voyage.

V. A Merchant ſhall not be receiv'd in any Action againſt the Maſters or Inſurers for Damage happen'd to his Goods, after having receiv'd them without Proteſtation; nor ſhall a Maſter be admitted to intent any Action againſt a Merchant for Avaridge, after having receiv'd his Freight, without making a Proteſtation.

VI. Nor ſhall the Proteſtations have any Effect, except they be follow'd within a Month by another Judiciary Demand.

VII. Nor ſhall the Maſter, after the Delivery of the Goods, be admitted to alledge any other Accident, but ſuch as are mentioned in his Declaration.

VIII. All

VIII. All Demands for Damage done by Ships running aboard of one another, ſhall be made within four and twenty Hours after the Damage is receiv'd, if the Accidents happen in any Port or Harbour, or other Place where the Maſter can Act.

IX. Victuallers ſhall not be receiv'd in any Action for Victuals furniſh'd to the Mariners, except it be by the Order of the Maſter; and in that Caſe too, they muſt make their Demands within the Year and Day; after which Time they ſhall not be receiv'd.

X. The foregoing Preſcriptions ſhall not take Place after the intervening of any Writing, Obligation, ſtated Account or judiciary Demand.

SECT. XIV.

Of Sentences and their Execution.

ARTICLE I.

ALL Sentences of the Particular or Inferior Courts of Admiralty, not exceeding fifty Livres, and thoſe of the General or Superiors Courts aforeſaid, not exceeding one hundred and fifty Livres, ſhall be executed peremptorily and without Appeal.

II. Peremptory and Definitive Sentences, concerning the Dues for Paſsports, and other Matters belonging to the Admiral, ſhall be executed by Proviſion; legal Security being given by the Receiver.

III. Sentences concerning the Reſtitution of Goods ſtol'n or robb'd at Shipwrecks, ſhall be executed notwithſtanding an Appeal, and without Prejudice of it, giving Security.

IV. Sentences, againſt which the Appeals are not ſued within ſix Months, ſhall be executed notwithſtanding the Appeals; Security being given.

V. Sen-

V. Sentences given concerning the Purchaſe and Sale of Ships, Freight, Seamens Wages, Inſurances, Bottomrees, or other Maritime Contracts, either concerning Commerce or Fiſhing, ſhall be executed by Impriſonment.

VI. We furthermore allow the Parties to engage their Perſons in all Maritime Contracts, the Notaries to inſert that Clauſe in ſuch as they draw up, and the Sergeants to impriſon by Virtue of that Clauſe, without any further Proceedings.

VII. And moreover, Our Ordinance of the Year 1667, ſhall be executed according to its Form and Tenour.

SECT. XV.

Of the Seizure and Sale of Ships, and the Diſtribution of the Prize.

ARTICLE I.

ALL Ships and Veſſels may be ſeiz'd and condemn'd by the Authority of the Judges, and all Pretenſions and Mortgages ſhall be clear'd by the Decree, which ſhall be made in the manner hereafter mention'd.

II. The Sergeant, after having made Commandment to pay, ſhall proceed to ſeize the Veſſel, and ſhall inſert in his Verbal Proceſs the Name of the Maſter, that of the Ship, and her Burthen, together with the Place where ſhe has moor'd; ſhall take an Inventory of her Tackle, Utenſils, Arms and Munitions, and ſhall put in her a Reſponſible Guardian or Keeper.

III. If the Owner reſides within the Juriſdiction, the Verbal Proceſs ſhall be ſignify'd at his Dwelling-Houſe, and he ſhall be ſummon'd to ſee the Ship expos'd to Sale; and if he has no Domicil within the Juriſdiction, the Signification ſhall be made, and the Summons given to the Maſter; and if the Owner be a Stranger re-

reſiding without the Kingdom, the whole ſhall be ſignify'd to our Attorney at that Court, who ſhall be oblig'd to acquaint forthwith our Attorney-General.

IV. The * Port-Sales and Publications ſhall be made three Sundays conſecutively, at the going out of the Maſs of the Pariſh-Church of the Place where the Ship is moor'd, and Placards ſhall be affix'd the next Day after each Publication, upon the Main-Maſt, upon the Key, at the principal Door of the Church, and of the Admiralty-Court, and other Cuſtomary Places.

V. The Publications and Placards ſhall likewiſe contain the Name of the Ship ſeiz'd and its Burthen, together with the Place where ſhe is lying aground or afloat, and ſhall declare the Days appointed for receiving the Offers of ſuch as intend to buy the Ship.

VI. They ſhall proceed to receive the firſt Offer immediately after the firſt Publication, upon the Day appointed by the Placard; and the Judge ſhall continue to receive them after every Publication, upon a certain Day appointed, once every Week.

VII. After the third Publication, the Ship ſhall be adjug'd to the higheſt Offerer without any other Formality.

VIII. However, the Judge may grant one Delay or two; which ſhall be publiſh'd, and affixed upon remarkable Places, as the former.

IX. The Adjudication of Barks, Boats, and other Veſſels of ten Tuns and under, ſhall be made in the Court after three Publications, made upon three Working Days conſecutively upon the Key; provided there be eight Days between the Seizure and the Sale.

X. The Perſons to whom ſuch Ships are adjudg'd, ſhall be oblig'd, within four and twenty Hours after the Time of the Adjudication is expir'd, to pay the Price, or elſe to conſign it either

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* *By* Port-Sales *and* Publications *are meant publick Proclamations of the Day and Hour of the Sale of condemn'd Goods and other ſuch Affairs.*

in the Hands of ſome eminent Merchant, or at the Admiralty-Office, without any Charges; and that not being perform'd in due Time, they may be thereto compell'd by Impriſonment, and a ſecond Sale of the Ship publiſh'd afreſh at the going out of the Pariſh-Maſs, and Adjudication made within three Days, at their Coſt and Riſque.

XI. All * Exceptions and Proteſtations ſhall be form'd at the Office before the Adjudication, after which they ſhall be converted into Proteſtations for Money.

XII. The Proteſters or Excepters ſhall be oblig'd to give in the Reaſons of their Proteſtations, within three Days after the making thereof, and to plead to them within the ſame Delay; after which the Suit ſhall be carry'd to the Court upon one ſimple Act.

XIII. The Maſterſhip of any Veſſel ſhall neither be ſeiz'd nor ſold, nor any Exception or Proteſtation of any Nature receiv'd concerning it; but the Purchaſers ſhall freely diſpoſe of it, allowing the Maſter for Damages (if he has ſuſtain'd any) his Recourſe againſt his Owners.

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* *This Term of* Exceptions *and* Proteſtations *ſeeming ſomewhat obſcure, I thought it neceſſary to tell the Reader, (who poſſibly may not be very well acquainted with the Ways of proceeding in ſuch Caſes in* France) *That thereby is meant* Proteſtations that are enter'd by Creditors, ſetting forth their Right and Title to a Share of, or to all the Product of the Ships, *&c.* of their Debtors, when ſued to an Adjucation by other Perſons: *And therefore the* French *King by this Ordinance, in the 16th Article of the ſame Title, regulates and determines the Precedency of the Creditors, according to the Nature of the Debts: So that ſuppoſing a Ship ſhou'd be ſeiz'd at the Suit of any Perſon that has furniſh'd Proviſions to her before the Voyage, if another produc'd ſufficient Proofs of his Claim for Money lent for the Neceſſities of the Ship during the Voyage, he would be preferr'd to the former; as the Seamen would be (for their Wages) to him; which you will eaſily obſerve by the Tenour of the aforeſaid Article. And as for this* Exception, *or* Oppoſition *here, as they call it, 'tis much of the Nature of that Act which we call an* Attachment.

XIV. Pro-

XIV. Proteſtations for Money ſhall not be receiv'd three Days after the Adjudication.

XV. Creditors excepting ſhall be oblig'd within three Days after they are thereto ſummon'd, to give in the Reaſons of their Exceptions, and produce their Pretenſions at the Office, to which they muſt plead within three Days, after which the Diſtribution of the Price ſhall be made amongſt them.

XVI. Seamen, for their Wages during their laſt Voyage, ſhall be preferr'd to all other Creditors; and next to them, ſuch as have lent Money for the Neceſſities of the Ship during the Voyage; afterward, thoſe to whom Money is due, for Refitting, Proviſions, and Tackle, *&c.* before their Departure; and in the fourth Place, the Merchants that laded; the whole, according to the Agreement of the Creditors, in the ſame Degree of Privilege. And as to other Creditors not privileg'd, they ſhall be paid according to the Laws and Cuſtoms of the Place where the Adjucation ſhall be made.

XVII. If the Ship thus adjudg'd has never made a Voyage, the Seller, the Carpenters, Caulkers, and other Artificers imploy'd in Building her, together with the Creditors for the Wood, Ropes, and other things furniſh'd for the Ship, ſhall be preferr'd to all other Creditors, and paid as they can agree amongſt themſelves.

XVIII. The Owners of a Ship of which any Part is ſeiz'd, when ready to ſet Sail, giving Security for the Value of the Part ſeiz'd, may ſend her to Sea.

XIX. They may likewiſe inſure the Part ſeiz'd, and take up Money upon Bottomree, for the *Præmium* of the Inſurance; of which they ſhall be re-imburs'd preferably to all others, out of the Profits of the Voyage.

SECT. XVI.

Of the Captains, Maſters, or Patrons of Ships.

ARTICLE I.

NO Perſon ſhall be capable of being receiv'd * Captain, Maſter, or Patron of a Ship, till he has navigated five Years, and has been publickly examin'd in Navigation, and judg'd capable by two ancient Maſters, in Preſence of the Officers of the Admiralty, and of the Profeſſor of *Hydrography*, if any be in the Place.

II. We forbid all Mariners to Sail in Quality of Maſters, and all Owners to conſtitute any in their Ships, before they be receiv'd in the aforeſaid Manner, under Pain of three hundred Livres, to be paid by each Offender.

III. However, ſuch as are already Maſters ſhall not be oblig'd to undergo any Examination.

IV. Such as have been receiv'd Pilots, and have navigated two Years in that Quality, may be conſtituted Maſters without any Examination, and without any Act of the Court of Admiralty.

V. The Maſters ſhall chuſe the Ship's Company, and hire the Pilots, Mates, Mariners and Sailors; but he ſhall adviſe with his Owners, when at the Port of their Reſidence.

VI. In Places where there are Hoſpitals of poor Boys, the Maſters ſhall be oblig'd to chuſe amongſt them their Ship-Boys.

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* *Theſe are three Synonimous Terms, us'd in different Places of* France, *to imply the Commander of a Ship.*

VII. If

VII. If any Maſter entice away a Mariner from another Maſter, he ſhall be fin'd in one hundred Livres, applicable one half to the Admiral, and the other half to the firſt Maſter, who may take the Mariner back again if he pleaſes.

VIII. A Maſter muſt take Care before he puts to Sea, that the Ship be right ballaſted and laded, and well provided with Anchors and Tackle, and all Things neceſſary for the Voyage.

IX. He ſhall be anſwerable for all the Goods laded aboard his Ship, which he ſhall be oblig'd to deliver according to the Bills of Lading.

X. He ſhall be oblig'd to keep a Book or Regiſter, quoted and flouriſh'd on every Leaf by one of his principal Owners, in which he ſhall inſert the Day that he was conſtituted Maſter, the Names of the Officers and Mariners of his Company, the Rates and Conditions of their Engagement, the Payments he makes them, what he receives and expends for the Uſe of the Ship, and generally every Thing that concerns the Functions of his Employment, or that he has any Account to give about, or any Demand to make.

XI. However, if (with the Maſter's Conſent) there be a Clerk eſtabliſh'd in the Ship, to take an Account of all ſuch Things, the Maſter ſhall be diſpens'd with.

XII. No Maſter ſhall lade any Goods upon the Ship's Deck, without the Order or Conſent of his Merchants, under Pain of being anſwerable for all the Damage that may happen.

XIII. Maſters ſhall be oblig'd, under Pain of an Arbitrary Fine, to be aboard their Ships themſelves when they go out of any Port, Harbour or River.

XIV. No Maſter, Patron, Pilot, nor Mariner, ſhall be arreſted for a Civil Debt, being a Shipboard to put to Sea, except it be for Debts contracted for the Voyage.

XV. The Maſter, before he ſets Sail, ſhall take the Advice of the Pilot, Mate, and other principal Men of the Ship's Company.

XVI. He ſhall be oblig'd before he puts to Sea, to give into the Admiralty-Office, of the Place of his Departure, the Names, Sir-

Sir-names, and Dwelling-places of his Company, Paſſengers, and Perſons engag'd for the *Weſt-Indies*; and to declare at his Return ſuch as he has brought back again, and the Places where he left the others.

XVII. He ſhall not, while in the Place where his Owners reſide, cauſe the Ship to be refitted, buy Sails, Ropes, or other Things for the Ship, nor take up Money for that Account upon the Ship without their Conſent, under Pain of paying the ſame himſelf.

XVIII. However, if with the Owner's Conſent a Ship be freighted, and any of them refuſes to contribute towards the neceſſary Charges for fitting out the Ship; in that Caſe the Maſter may take up Money for Bottomree, for the Account and upon the Parts of the Refuſers, within four and twenty Hours after he has ſent them a Summons in Writing to furniſh their Proportions.

XIX. He may likewiſe, during the Voyage, take up Money upon the Ship, either for Refitting, Victuals, or other Neceſſaries, or may pawn ſome of the Rigging, or ſell ſome Goods of his Lading, upon Condition to pay for them at the Rate that the reſt ſhall be ſold; all which muſt not be done without the Advice of the Mate and Pilot, who ſhall write down in the Journal the Neceſſity of ſuch borrowing of Money, or Selling of Goods, and the Manner how the Money was laid out: But the Maſter ſhall not in any Caſe have Power to ſell the Ship, without a ſpecial Procuration from the Owners.

XX. If any Maſter (without Neceſſity) takes up Money upon the Ship or Rigging, ſells Goods, pawns the Tackle, or ſtates in his Accounts falſe and ſuppos'd Avaridges and Expences, he ſhall pay what he takes up himſelf, be declar'd unworthy of being a Maſter, and baniſh'd from his ordinary Place of Reſidence.

XXI. Maſters hir'd to make a Voyage ſhall be oblig'd to accompliſh it, under Pain of making good the Damages and Loſſes of the Owners and Merchants; and to be proceeded againſt extraordinary, if that happens.

XXII. They may, with the Advice of the Mate and Pilot, cauſe to be duck'd or put in the Hole, and inflict ſuch ſort of Puniſhments, upon drunken and diſobedient Seamen, or upon ſuch as abuſe

abuſe their Comrades, or commit ſuch other Faults and Offences during the Voyage.

XXIII. And as for ſuch as ſhall be guilty of Murder, Aſſaſſination, Blaſphemy, or other Capital Crimes committed at Sea, the Maſters, Mates and Quarter-maſters, ſhall be oblig'd ſolidarily, under Pain of one hundred Livres, to inform againſt them, to ſeize their Perſons, and make the neceſſary Proceedings for preparing their Proceſs, in order to deliver the Criminals into the Hands of the Officers of the Admiralty, at the Place of the Lading or Unlading of the Ships within our Kingdom.

XXIV. We forbid all Maſters, under Pain of exemplary Puniſhment, to enter (except in Caſes of Neceſſity) into any Foreign Port; and in Caſe they be forc'd into any by Tempeſt or Pirates, they ſhall put to Sea again with the firſt Conveniency.

XXV. We enjoin all Captains and Maſters, making long Voyages, to aſſemble every Day at Noon, and oftner if need be, the Mates and Pilots, and other expert Perſons, and to confer with them about the Latitudes taken, the Courſe made and to make, and about their Calculation.

XXVI. They ſhall not abandon their Ships during the Voyage, notwithſtanding any Danger, without the Advice of the moſt expert Officers and Mariners; and in that Caſe, they ſhall be oblig'd to carry off with them the Money and the moſt precious Goods they have on Board, under Pain of anſwering for it themſelves, and of perſonal Puniſhment.

XXVII. If the Effects ſo taken out of the Ship be loſt by any Accident, the Maſter ſhall be free from any Danger.

XXVIII. The Maſters and Patrons who ſail in Parnerſhip with the other Owners, ſhall have no ſeparate Dealings for their own particular Account, under Pain of Confiſcation of their Goods for the Benefit of the other Partners.

XXIX. They ſhall not borrow for their Voyages, any more Money than what is neceſſary for their Lading, under Pain of being depriv'd of their Places, and their Share in the Profits.

XXX. They

XXX. They ſhall be oblig'd, under the like Penalty, to give before their Departure, to the Proprietors of the Ship, a ſign'd Account of the Quality and Price of the Goods they have aboard, and of the Sums of Money borrow'd by them, together with the Names and Dwelling-places of the Lenders.

XXXI. If the Common Stock of Proviſions fail at Sea, the Maſter may compel ſuch as have any in particular to deliver them up for the Uſe of all in general, upon Condition to pay them the Price thereof.

XXXII. No Maſter ſhall ſell the Proviſions of his Ship, nor divert and conceal them, under Pain of Bodily Puniſhment.

XXXIII. They may however, with the Advice and Conſent of the Officers, ſell to Ships that they find in Neceſſity at Sea, provided they have enough remaining for their own Voyage, and render an Account thereof to the Owners.

XXXIV. At the Return of the Voyage, the Victuals and Munitions ſhall be remitted by the Maſter into the Hands of the Owners.

XXXV. If the Maſter ſteer a falſe Courſe, commit any Robbery, or ſuffer any to be committed in his Ship, or fraudulently give way to any Alienation or Confiſcation of Ship or Goods, he ſhall be puniſh'd corporally.

XXXVI. A Maſter being convicted of having deliver'd to the Enemy, or maliciouſly run his Ship aground, ſhall be puniſh'd with Death.

SECT.

SECT. XVII.

Of the Almoner *or* Chaplain.

ARTICLE I.

IN Ships making long Voyages, there ſhall be a Prieſt approv'd by the Biſhop of his Dioceſe, or (if he be a Friar) by his Superior, to be Chaplain.

II. The Chaplain ſhall be conſtituted by the Maſter with the Conſent of the * Catholick Owners; and thoſe of the P. Reform'd Religion ſhall have no Voice in that Choice.

III. He ſhall celebrate Maſs at leaſt on Sundays and Holidays, and ſhall adminiſtrate the Sacraments to thoſe of the Ship; and ſhall likewiſe make Publick Prayers every Morning and Evening, where all Perſons in the Ship ſhall aſſiſt, except they have a lawful Hindrance.

IV. We forbid, on Pain of Death, Owners, Merchants, Paſſengers, Mariners, and others, on board of Ships, of what Religion ſoever they be, to diſturb in any manner the Exerciſe of the Catholick Religion; and we enjoin them to honour and reſpect the Chaplain, under Pain of exemplary Puniſhment.

* *You may eaſily gueſs that by* Catholick *is here meant* Roman Catholick *or* Popiſh *Owners.*

SECT. XVIII.

Of the CLERK.

ARTICLE I.

THE Clerk ſhall be oblig'd to keep a Regiſter or Journal, quoted and flouriſh'd on every Page by the Lieutenant of the Admiralty, or two of the Principal Owners of the Ship.

II. He ſhall inſert in his Regiſter, all the Rigging, Arms, Munitions and Victual of the Ship, the Goods laded and unladed, the Names of the Paſſengers, what is due for their Freight or Paſſage, a Liſt of the Ship's Company and their Wages, the Names of ſuch as deceaſe during the Voyage, and the Day of their Deceaſe, and if poſſible the Quality of the Diſtemper, and the manner of their Death, what ſhall be bought for the Ship from the Time of her Departure; and generally every Thing that concerns the Expences of the Voyage.

III. He ſhall likewiſe write down all the Deliberations and Reſolutions taken in the Ship, with the Names of thoſe that vote; who ſhall ſubſcribe themſelves if they can; and if not, he ſhall make mention of the Reaſon why they don't.

IV. He ſhall have an Eye to the Diſtribution and Conſervation of the Proviſions, and ſhall write down in his Book what has been bought during the Voyage, and put into the Hands of the Steward, of whom he ſhall exact an Account every eight Days.

V. We give him Power to receive the Teſtaments of Dying Perſons, to take an Inventory of the Effects left by them in the Ship, and to be Clerk of the Criminal Proceſſes.

VI. The Clerk's Record ſhall be Authentick in Law, and we forbid him, on Pain of Death, to write any Thing in it contrary to the Truth.

VII. Bills

VII. Bills of Lading, ſign'd by the Clerk for his Kinſfolks, ſhall be flouriſh'd in Foreign Places by the Conſul, and in *France* by one of the principal Owners of the Ship, or elſe they ſhall be of no Effect.

VIII. The Clerk ſhall not leave the Ship, till the Voyage be accompliſh'd, on Pain of loſing of his Wages, and an Arbitray Fine.

IX. Four and twenty Hours after the Voyage is ended, he ſhall be oblig'd to give into the Admiralty-Office, Minutes of the Inventories, Information and Teſtaments made during the Voyage; to which he may be compell'd by Impriſonment.

SECT. XIX.

Of the PILOT.

ARTICLE I.

NO Perſon ſhall be receiv'd Pilot, nor perform that Function, till he has made ſeveral Voyages, and has been examin'd in Navigation, and found capable and experienced by the Profeſſor of *Hydrography*, two ancient Pilots, and two Maſters of Ships, in Preſence of the Officers of the Admiralty.

II. He that would be receiv'd Pilot, ſhall be oblig'd, for proving his Voyages, to produce the Journals at his Examination.

III. The Pilot ſhall direct the Courſe, and ſhall provide himſelf *Maps*, *Ruttiers*, the *Aſtronomical* Inſtrument call'd *Jacob's-Staff*, *Aſtrolabes* and all other Books and Inſtruments neceſſary for his Art.

IV. In long Voyages he ſhall have two Journals, in one of which he ſhall write the Changes of the Courſes and Winds, the Days and Hours of the Changes, the Leagues which he believes the

Ship has ſail'd in each, the Reductions in Latitude and Longitude, the Variations of the Compaſs, together with the Sounds and Shores he has diſcover'd; and in the other he ſhall write out clean, once in four and twenty Hours, Courſes, Longitude and Latitude reduc'd, and the Latitudes obſerv'd, and all other remarkable Things diſcover'd during the Voyage.

V. We furthermore enjoin him, at the Return of long Voyages, under Pain of fifty Livres, to put a Copy of his Journal in the Office of the Admiralty, of which the Clerk ſhall give him a *Certificate* without any Fee.

VI. If there be no Clerk, the Pilot ſhall be oblig'd, if requir'd by the Maſter, to take an Account of the Goods brought aboard, and to make the Inventories of the Effects left by Perſons dying a Shipboard, which ſhall be ſign'd by the Maſter, and two of the Principal Mariners.

VII. If a Pilot, by Ignorance or Negligence, occaſion the Loſs of a Ship, he ſhall pay one hundred Livres Fine, and be for ever depriv'd of the Exerciſe of Pilotage; and if he does it deſignedly, he ſhall be puniſh'd with Death.

VIII. No Maſters of Ships ſhall force Pilots to paſs thro' dangerous Places, and to ſteer Courſes againſt their Will; and in Caſe of Contrariety of Opinions, they ſhall be govern'd by the Advice of the moſt expert Mariners.

SECT. XX.

Of the MATE.

ARTICLE I.

THE Mate ſhall take Care of the fitting out of the Veſſel, and before they put to Sea, ſhall examine whether it be ſufficiently provided with Ropes, Pulleys, Sails, and all other Rigging neceſſary for the Voyage.

II. At

II. At the Departure he ſhall ſee the Anchor hois'd; and during the Voyage, he ſhall viſit once a Day all the Tackle high and low; and if he obſerves any Thing amiſs, ſhall acquaint the Maſter.

III. He ſhall execute in the Veſſel, and cauſe to be executed Day and Night, the Orders of the Maſter.

IV. Arriving at a Port, he ſhall cauſe the Cables and Anchors to be prepar'd, and ſhall have the Care of the Management of the Sails and Yards, and Mooring of the Ships.

V. In Caſe of the Abſence or Sickneſs of the Maſter, the Mate ſhall command in his Place.

SECT. XXI.

Of the SURGEON.

ARTICLE I.

IN every Ship, even in the Fiſhing Ships making long Voyages, there ſhall be one or two Surgeons, according to the Circumſtances of the Voyages and Number of the Perſons.

II. None ſhall be receiv'd as Surgeons on board of Ships, till they have been examin'd and found capable by two Maſter-Surgeons, who ſhall give their Certificates.

III. The Owners ſhall be oblig'd to provide the Surgeon's Cheſt, well ſtor'd with Drugs, Ointments, Medicaments, and other Things neceſſary for treating Sick Perſons during the Voyage; and the Surgeon ſhall provide the Inſtrument of his Profeſſion.

IV. The Cheſt ſhall be viſited by the moſt ancient Maſter-Surgeon of the Place, and by the moſt ancient Apothecary; provided it be not the ſame that furniſh'd the Drugs.

V. The

V. The Surgeons ſhall be oblig'd to get their Cheſts viſited at leaſt three Days before the Departure; and the Maſter-Surgeons and Apothecaries to do it within four and twenty Hours after they are thereto requir'd, on Pain of thirty Livres Fine, and the Damages of Demurage.

VI. No Maſter ſhall receive any Perſon to ſerve aboard his Ship as Surgeon, without producing a Copy of the Atteſtations of his Capacity, and of the Condition of his Cheſt, in due Form; under Pain of fifty Livres Fine.

VII. We enjoin the Surgeons of Ships, in caſe they diſcover any contagious Diſtemper, to acquaint forthwith the Maſter, that he may take his Meaſures accordingly.

VIII. They ſhall exact nor receive nothing of the Mariners ſick or wounded in the Service of the Ship, under Pain of Reſtitution, and an Arbitrary Fine.

IX. The Surgeon ſhall not leave the Veſſel in which he is engaged, before the Voyage is accompliſh'd; under Pain of the Loſs of his Wages, of being fin'd in one hundred Livres, and of paying the like Sum for Damages to the Maſter.

SECT. XXII.

Of the SEAMEN.

ARTICLE I.

THE Seamen ſhall be oblig'd to appear at the Days and Places appointed, to take aboard the Proviſions, rig out the Ship, and ſet Sail.

II. A Seaman hir'd for a Voyage muſt not leave the Ship, without a Diſcharge in Writing, till the Voyage is ended, and the Ship moor'd at the Key and unladed.

III. If

III. If a Seamen leaves a Maſter without a Diſcharge in Writing before the Voyage is begun, he may be taken up and impriſon'd where-ever he can be found, and compell'd to reſtore what he has receiv'd, and ſerve out the Time for which he had engag'd himſelf for nothing; and if he leaves the Ship after the Voyage is begun, he may be puniſh'd corporally.

IV. However, if after the Arrival and Unlading of a Ship at the intended Port, the Maſter (inſtead of returning) takes a Freight to go elſewhere, the Seamen may leave him if they pleaſe, except it be otherwiſe provided by their Agreement.

V. After the Ship is laded, the Seamen ſhall not go aſhore without Leave from the Maſter, under Pain of five * Livres for the firſt Fault; and may be puniſh'd corporally if they commit a ſecond.

VI. We forbid the Mariners and Seamen to take any Bread or Victuals, or draw any Drink, without the Permiſſion of the Maſter or Steward, under Pain of the Loſs of one Month's Wages, and of a greater Puniſhment if the Fault deſerves it.

VII. The Seaman or other that ſpoils the Drink, deſtroys the Bread, makes the Ship leaky, excites a Sedition to break the Voyage, or ſtrikes the Maſter having Arms in his Hand, ſhall be puniſh'd with Death.

VIII. Any Seamen ſleeping in his Poſt, or upon the Watch, ſhall be put in Irons during fifteen Days; and any of the Company finding one a-ſleep, and not acquainting the Maſter therewith, ſhall pay five Livres.

IX Any Mariner abandoning the Maſter, and the Defence of the Ship in Time Battel, ſhall be puniſh'd corporally.

X. We forbid all Perſons to raiſe, within the Extent of our Kingdom, and the Lands and Countries under our Obedience,

* *Five* Livres *make* 8 s. 4 d. *counting twelve* French Sols *to a* Shilling, *and are worth, according to the real intrinſick Value,* (*reckoning the* French Crown *at ſixty* Sols, *as it formerly was*) 7 s. 6 d. Engliſh.

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any Seamen for foreign Armaments and Expeditions; and we in like manner forbid our Subjects ſo to engage themſelves without our Permiſſion, under Pain of exemplary Puniſhment.

SECT. XXIII.

Of the OWNERS of SHIPS.

ARTICLE I.

ALL our Subjects, of any Quality or Condition whatſoever, may cauſe Ships to be built or bought, fit them out for themſelves, freight them to others, and drive a Trade at Sea by themſelves, or by Perſons interpos'd; by which * Gentlemen ſhall not be reputed to do any Act derogatory to their Quality, provided they ſell nothing by Retail.

II. † The Owners of Ships ſhall be anſwerable for the Deeds of the Maſter; but ſhall be diſcharg'd, abandoning their Ship and Freight.

III. However, the Owners of Armed Ships ſhall not be anſwerable for their Crimes and Piracies committed at Sea by the Crews of their Ships, any further than for the Sums for which they may have given Security, except it appear that they are Partakers or Accomplices in the Crimes.

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* *The Edict already ſpoken of* (Page) *and which was only intended for that Purpoſe, allows the Gentlemen greater Liberties, and does more amply expreſs them, than this Ordinance, which has principally Relation to the Marine.*

† *The better to oblige Owners of Ships to be very nice and careful in providing them with honeſt Maſters, it is by this Article provided, that they themſelves ſhall be anſwerable for the Behaviour of the Maſters they put in their Ships, for any Sum not exceeding the Value of their Ships, and of their Freight.*

IV. The

IV. The Owners of Ships may diſmiſs the Maſter, reimburſing him (if he requires it) of his Part in the Ship, according to the Eſtimation of underſtanding Perſons.

V. In every Thing concerning the common Intereſt of the Owners, the Opinion of the greater Number ſhall prevail; and the Number ſhall be computed according to the Shares that every Man has in the Ship.

VI. No Perſon may conſtrain his Partner to proceed to the Sale of a Ship, except the Opinions of the Owners be equally different about the Undertaking of any Voyage.

SECT. XXIV.

Of Carpenters and Caulkers.

ARTICLE I.

THE Myſteries of Carpenter, Caulker, and Borer of Ships, may be in Time to come profeſs'd by one and the ſame Man, notwithſtanding any Statute or Regulation to the contrary.

II. In every Port the Carpenters and Caulkers ſhall meet once a Year, to chooſe two Inſpectors or Overſeers.

III. Theſe Overſeers ſhall view from Time to Time the Works, and ſhall make their Report to the Judges, of the Abuſes and bad Workmanſhip they ſhall diſcover in the Building, Refitting and Caulking of Ships.

IV. Thoſe that keep two or more Apprentices in Places where poor Boys are kept in Hoſpitals, ſhall be oblig'd to take one out thence; to whom the Directors of the Hoſpital ſhall be oblig'd to furniſh the neceſſary Inſtruments, Food and Cloaths.

V. An Apprentice taken out of an Hoſpital, ſhall be oblig'd to ſerve his Maſter one Year after his Time is expir'd, in Quality of Journey-man, without any other Hire but his Victuals.

VI. Apprentices ſhall not be oblig'd to take any Oath in entring to their Apprenticeſhip, nor to pay any Fees or make any Feaſt; which ſhall not be requir'd of them, on Pain of an Arbitrary Fine, and Reſtitution of fourfold.

VII. Such as have Ships to be refitted may make Uſe of foreign Workmen, and have (if they pleaſe) the Work view'd by the Overſeers of the Place.

SECT. XXV.

Of Ships and Veſſels.

ARTICLE I.

ALL Ships and Veſſels ſhall be reputed Moveables, and ſhall not be ſubject to * Redemptions, nor to pay any Duties to the Lords of Manors.

II. All Veſſels however, ſhall be liable for the Debts of the Seller, 'till they have made a Voyage under the Name, and at the Riſque of the new Acquirer, except they have been ſold by Adjudication.

III. The Sale of a Ship in Voyage, or under a private Subſcription, ſhall not in any Manner be prejudicial to the Creditors of the Seller.

IV. All Ships ſhall be gaug'd immediately after they are perfected, by the Viewers or Overſeers of the Trade or Myſtery of

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* *The Word which I here render* Redemption, *is in the Original* Retrait Lignager, *and implies a Power inherent in an Heir to revoke ſome Grant, or redeem ſomething mortgag'd by his Predeceſſors; to which Sort of Redemption, Ships are declar'd by this Law not to be ſubject.*

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Carpenters; who ſhall give an Atteſtation of the Burthen of the Ship, which ſhall be en-regiſtred in the Admiralty-Office.

V. To diſcover and regulate the Burthen and Capacity of a Ship, the Hold ſhall be meaſured at the Rate of two and forty Foot *Cube* for the Sea-Tun.

VI. The Officers of the Admiralty ſhall be oblig'd, under Pain of Interdiction of their Offices, to take every Year, in the Month of *December*, an Account of all the Ships belonging to the Inhabitants of their Juriſdiction; which ſhall contain their Burthen, Age, Quality and Shape, with the Names of the Owners; all which they ſhall ſend to the Secretary of State, who has the Management of the Marine Affairs of that Department.

Note, *The Deſign of making Ships ſold privately, liable for the Debts of the laſt Owner, till they have made a Voyage at the Riſque, and under the Name of the new Acquirer, is only to prevent Sham-Sales of Ships frequently made only to defraud the Creditors of the Seller; which certainly is a very juſt and commendable Conſtitution.*

And as to the Injunction laid in the laſt Article upon the Officers of the Admiralty, to take a yearly Account of the Shipping belonging to the Places of their Reſidence, and others within the Diſtrict of their Courts, in Order to ſend it to the proper Secretary of State, 'tis a very convincing Proof of the regular and excellent Methods obſerv'd by the French *Court for the Improvement of Navigation; which if (by the Account brought in once a Year) they find to decay in any Place of the Kingdom, diligent Enquiry is made into the Reaſons of its decaying, and all Manner of Impediments whereby it has, or may be obſtructed, are carefully remov'd.*

Nor is this the only Advantage attending their Diligence and Exactneſs in ſuch Matters; for, by thoſe yearly Liſts, the French *King knows (within the Number of* 100 *Men, or leſs) how many Mariners and Seamen, Foreigners as well as Natives, there are within the Extent of his Dominions: And he likewiſe knows what Number is abroad in long Voyages; when they may reaſonably be expected back again; and where they are to arrive, and conſequently when and where they may be ſerviceable to him.*

As to the Word Department, *which to ſome may ſeem a little ſtrange, I ſhall inform you that the* French *have four famous Ports in four different Places of the Kingdom, where the Royal Navy is*

laid up and fitted out; all the Maritime Towns and Villages in France *are divided according to their Situation, and belong to the Diſtrict of ſome of theſe four principal Ports which are call'd* Departments, *as being the Places from whence the Navy departs: All the Seamens Names in the Kingdom are recorded in the Places of their Reſidence, they all know to what* Department *theſe Places belong; and while at home, they are all ready upon a Call to march to their reſpective* Departments.

Several Secretaries or Miniſters of State, have the Charge and Adminiſtration of the Marine Affairs of theſe Departments, *each having an Account of the Maritime Force of his Diſtrict; ſo as the King can be inform'd as often as he pleaſes, of the State of his Navy, and of the Trade of his Subjects.*

But of all this, a more particular Account ſhall be given in the Article about the Engliſh *Admiralty and Navy, and more exact Obſervations ſhall there be made about it.*

SECT. XXVI.

Of Charter-Parties and Freighting of Ships.

ARTICLE I.

ALL Articles for Freighting of Ships ſhall be reduc'd into Writing, and agreed to by the Merchants that freight, and the Maſter or Owners of the Ships freighted.

II. The Maſter ſhall obſerve the Orders of his Owners, when he freights the Ship, at the Place of their Reſidence.

III. The Charter-Party ſhall contain the Name and Burthen of the Veſſel, the Names of the Maſter and Freighters, the Place and Time of the Lading and Unlading, the Freight, the Time the Veſſel is to ſtay at the reſpective Ports, and the Conventions about Demurage; to which the Parties may add ſuch other Conditions as they pleaſe.

IV. The

IV. The Time of the Lading and Unlading the Goods, ſhall be regulated according to the Cuſtom of the reſpective Ports, except it be determined by the Charter-Party.

V. If a Ship be freighted by the Month, and the Time of the Freight be not regulated by the Charter-Party, it ſhall only commence from the Day that the Ship ſhall ſail.

VI. He who after having receiv'd a Summons in Writing to fulfil the Contract, refuſes it, or delays it, ſhall make good all the Loſs and Damage.

VII. But if before the Departure of the Ship, there ſhould happen an *Embargo*, occaſion'd by War, Repriſals, or otherwiſe, with the Country whither the Ship is bound, the Charter-Party ſhall be diſſolv'd without any Damages or Charges for either Party, and the Merchant ſhall pay the Charges of Lading and Unlading his Goods; but if the Difference be with one another, the Charter-Party ſhall be valid in all its Points.

VIII. If the Ports be only ſhut, and the Veſſels ſtopp'd by Force for a Time, the Charter-Party ſhall ſtill be valid, and the Maſter and Merchant ſhall be reciprocally oblig'd to expect the Opening of the Ports and the Liberty of the Ships, without any Pretenſions for Damages on either ſide.

IX. However, the Merchant may at his own Charge unlade his Goods, during the *Embargo*, or Shutting up of the Port, upon Condition either to lade them again, or indemnify the Maſter.

X. The Maſter ſhall be oblig'd, during the Voyage, to have aboard the Charter-Party, and the other neceſſary Deeds concerning his Lading.

XI. The Ship, Rigging and Tackle, and the Freight and Goods laded, ſhall be reſpectively affected by the Conventions of the Charter-Party.

SECT.

SECT. XXVII.

Of BILLS *of* LADING.

ARTICLE I.

ALL Bills of Lading for Goods put aboard a Ship, ſhall be ſign'd by the Maſter or the Clerk of the Ship.

II. All Bills of Lading ſhall contain the Quality, Quantity, and Mark of the Goods, the Names of the Perſons that lade them, and of thoſe to whom they are conſign'd, the Places of Departure and Unlading, the Names of the Maſter and the Ship, and the Value of the Freight.

III. All Bills of Lading ſhall be triple, one ſhall remain in the Hands of the Lader, another ſhall be ſent to the Perſon to whom the Goods are to be conſign'd, and the third ſhall be left in the Hands of the Maſter or Clerk.

IV. The Merchants ſhall be oblig'd within four and twenty Hours after the Goods are laded, to preſent the Bills of Lading to be ſign'd by the Maſters, and to give them the Acquittances and Diſcharges for the Cuſtoms of their Goods, under pain of paying the Damages of the Retardment.

V. Factors and others, receiving Goods expreſs'd in Bills of Lading, or Charter-Parties, ſhall be oblig'd to give a Receipt thereof to the Maſters upon their demanding it, under pain of all Expences, Damages and Loſſes, and thoſe of the Retardment as well as others.

VI. In caſe of any Diverſity in Bills of Lading taken for the ſame Goods, that which ſhall be in the Hands of the Maſter ſhall he Authentick, if fill'd up by the Merchant or his Factor; and that which is in the Hands of the Merchant ſhall be good, if fill'd up by the Captain.

SECT.

SECT. XXVIII.

Of FREIGHT.

ARTICLE I.

THE Freight of Ships ſhall be regulated by the Charter-Party or Bill of Lading, whether the Ships be freighted in Whole or in Part, for the Voyage, or by the Month, expreſſing the Burthen by the Tun, the Quintal, by Parts, or any other Way.

II. If the Veſſel be hir'd for the Whole, and the Freighter does not put her full Lading aboard, the Maſter ſhall not take aboard any other Goods without his Conſent, nor without rendring him an Account of the Freight.

III. A Merchant not lading the Quantity of Goods mention'd by the Charter-Party, ſhall notwithſtanding pay the Freight as if he had done it; and if he lades any more, he ſhall pay Freight for them.

IV. A Maſter that declares his Veſſel to be of greater Burthen than ſhe is, ſhall ſuſtain the Damages thereby happening to the Merchant.

V. It ſhall not be reputed an Error in the Declaration of the Ship's Burthen, if the Difference does not exceed one fortieth Part.

VI. If the Veſſel be laded by Parts, or by the Quintal, or by the Tun, a Merchant being deſirous to take out his Goods before her Departure, may do it at his own Charge, paying half Freight.

VII. A Maſter may likewiſe unlade and lay down upon the Shore any Goods found in his Ship, and put on board there without his Knowledge, or take the Freight at the higheſt Rate that any Goods of that Quality pay.

VIII. A

VIII. A Merchant unlading his Goods during a Voyage, ſhall nevertheleſs pay the whole Freight, except he be oblig'd to unlade them by the Deed of the Maſter.

IX. If a Ship is ſtopp'd in her Courſe, or at the Port of her Unlading, by the Deed of the Merchant that freights her, or if ſhe, having been freighted outward and inward, is forc'd to return empty, the Damages of the Retardment, and the whole Freight, ſhall be (notwithſtanding) due to the Maſter.

X. The Maſter ſhall be likewiſe anſwerable for the Damages of the Freighter, if, according to the Judgment of intelligent Perſons, a Veſſel is ſtopp'd in her Courſe, or at a Port, by the Deed of the Maſter.

XI. If a Maſter is oblig'd to cauſe his Ship to be refitted during a Voyage, the Freighter ſhall be oblig'd either to wait or pay the whole Freight; and if the Ship cannot be rigg'd out, the Maſter ſhall forthwith hire another; and if none can be found, he ſhall only be paid in Proportion to the Part he has perform'd of the Voyage.

XII. However, if the Merchant prove that when the Ship put to Sea ſhe was unfit for Sailing, the Maſter ſhall loſe his Freight, and pay the other Damages and Loſſes.

XIII. The Maſter ſhall be paid the Freight of Goods thrown over-board for the Common Safety, out of the Contribution.

XIV. Freight ſhall likewiſe be due for Goods that the Merchant may have been forc'd to ſell for Victuals, Refitting, and other preſſing Neceſſities, (an Account being kept by him of their Value) according as the reſt are ſold at the Place of Unlading.

XV. If there happens an Interdiction of Commerce with any Country to which a Veſſel is bound, and in her Courſe, ſo that ſhe returns with her Lading, there ſhall only be due to the Maſter the Freight for going thither, even tho' the Ship be freighted to go and come.

XVI. If a Veſſel, in the Courſe of her Voyage, be arreſted by a Supream Power, there ſhall be no Freight due for the Time of their

their Detention, if freighted by the Month, nor no Augmentation, if freighted by the Voyage: But the Food and Wages of the Seamen, during the Detention, ſhall be reputed Avaridge.

XVII. In Caſe the Perſon mention'd in any Bill of Lading refuſe to accept the Goods, the Maſter, by the Authority of the Judges, may cauſe ſome to be ſold for the Payment of his Freight, and depoſit the reſt in a Ware-houſe.

XVIII. No Freight ſhall be due for Goods loſt by Shipwrack, or taken by Pirates or Enemies; and in that Caſe, the Maſter ſhall be oblig'd to reſtore what has been advanc'd to him, except there be ſome Agreement to the contrary.

XIX. If the Ship and Goods be ranſom'd, the Maſter ſhall be paid his Freight to the Place where they were taken; and he ſhall be paid his whole Freight if he conduct them to the Place agreed to, he contributing towards the Ranſom.

XX. The Contribution for the Ranſom ſhall be made according to the Current Price of the Goods at the Place of their Unlading, (deducing the Charges) and upon the Total of the Ship and Freight, deducing the Victuals made uſe of, and the Money advanc'd to the Seamen; who ſhall likewiſe contribute towards the Diſcharge of the Freight, in Proportion of what ſhall remain due to them of their Wages.

XXI. The Maſter ſhall likewiſe be paid the Freight of Goods ſav'd from Shipwrack, he conducting them to the Place appointed.

XXII. If he cannot find a Ship to carry thither the Goods preſerv'd, he ſhall only be paid his Freight in Proportion to what he has perform'd of the Voyage.

XXIII. The Maſter ſhall not detain the Goods in his Ship for Default of the Payment of his Freight, but at the Time of Unlading, he may hinder them from being carry'd away, or cauſe them to be ſeiz'd in the Hoys or Lighters.

XXIV. The Maſter ſhall be referr'd for his Freight upon the Goods of his Lading, as long as they are in the Ship, in Lighters, or upon the Key; and he ſhall likewiſe be preferr'd wherever the

Goods may be, within fifteen Days after the Delivery, provided they are not paſs'd into the Poſſeſſion of a third Perſon.

XXV. Merchants may not oblige Maſters to take, for their Freight, Goods that are fallen in Price, or that are ſpoilt or damnified by their own Naughtineſs, or by Accident.

XXVI. However, if Goods contain'd in Casks, ſuch as Wine, Oil, Honey, and other Liquors, have leak'd ſo much that the Casks are empty, or almoſt empty, the Merchants that laded them, may abandon them to the Maſter for the Freight.

XXVII. We forbid all Brokers and others to cauſe, under-hand, more Freight to be paid for Goods than is expreſs'd in the firſt Contract or Charter-Party, under Pain of one hundred Livres, and a ſeverer Puniſhment, if they deſerve it.

XXVIII. However, the Freighter of a whole Ship, that has not compleated her Lading, may take in other Goods to make it up, and apply the Freight to his own Uſe.

SECT. XXIX.

Of the Engaging, and Wages of Seamen.

ARTICLE I.

ALL Agreements between Maſters and their Seamen, ſhall be reduc'd into a Writing, which ſhall contain all the Conditions, whether they engage themſelves by the Month, or for the Voyage; whether by the Profit or Freight; if otherwiſe, the Seamens Oath ſhall be believ'd.

II. The Seamen ſhall not lade any Goods upon their own Account, under Pretence of * *Portage*, nor otherwiſe, without paying the Freight, except it be mention'd in their Agreement.

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* *By* Portage *is here meant a certain Space, that is generally allowed the Seamen in* France, *to carry a Venture for their own Account.*

III. If

III. If by the Fault of the Owners, Maſters or Merchants, a Voyage be broke before the Departure of the Ship, the Seamen hir'd for the Voyage ſhall be paid for the Time taken up in rigging and equipping the Ship, and have one Fourth of their Wages; and thoſe engag'd by the Month, ſhall be paid in Proportion, regard being had to the ordinary Length of the Voyage: But if the Voyage be broke after it is begun, the Seamen hir'd for the Voyage ſhall be paid their whole Wages, and thoſe hir'd by the Month what is due to them for the Time they have already ſerv'd, and for that which will be neceſſary for returning to the Place from whence the Ship departed; and both ſhall be paid for their Maintenance till they arrive there.

IV. In Caſe of a Prohibition of Trade with the Place whither the Ship is bound before the Voyage begins, there ſhall be no Wages due to the Seamen of either ſort; who ſhall only be paid for the Time ſpent in fitting out the Ship: And if ſuch a Prohibition happens during the Voyage, they ſhall only be paid in Proportion to the Time they have ſerv'd.

V. If the Ship be ſtopp'd by a Sovereign Order before the Voyage be begun, there ſhall be nothing due to the Seamen, but their Wages for fitting out the Ship; but if 'tis during the Courſe of the Voyage, thoſe engag'd by the Month ſhall have half Wages during the Detention of the Ship, and thoſe engag'd by the Voyage ſhall be paid according to their Agreement.

VI. If the Voyage be prolong'd, the Wages of the Seamen hir'd by the Voyage ſhall be augmented proportionably; and if they voluntarily unlade in a nearer Port than that mention'd in the Agreement, their Wages notwithſtanding ſhall not be diminiſh'd: But if they are hir'd by the Month, they ſhall be in both Caſes paid for the Time they ſerve.

VII. And as for the Seamen and others going by the Profit or Freight, they ſhall not pretend any Wages for equipping or Damages, if the Voyage be broke, retarded or prolong'd by a Superior Power, whether before or after the Departure of the Ship; but if the breaking, retarding or prolonging of the Voyage, happens by the Fault of the Freighters, the Seamen ſhall have ſhare in the Coſts and Damages allow'd the Maſter, who, as well as the

Owners ſhall pay Damages to the Seamen, if they be the Cauſe of the Hindrance.

VIII. In Caſe the Ship be taken, or ſuffer Shipwrack, and Ship and Goods be entirely loſt, the Seamen ſhall pretend no Wages; but they ſhall not however be oblig'd to reſtore what has been advanc'd to them.

IX. If ſome Part of the Ship be preſerv'd, the Seamen ſhall be paid the Wages that are due to 'em out of the Wrack they have preſerv'd; and if there be only Goods ſav'd, the Seamen, even thoſe that are engag'd by the Freight, ſhall be paid their Wages by the Maſter, proportionably to the Freight he receives; and whatever way they be hir'd; they ſhall be over and above paid for the Time they are employ'd in ſaving the Wrack and Goods.

X. If a Maſter diſmiſs a Mariner without a ſufficient Cauſe before the Voyage is begun, he muſt pay him one third of his Wages; and if after the Voyage is begun, he ſhall pay him his whole Wages, together with his Charges for returning to the Place of his Departure; nor ſhall he ſtate that to the Account of his Owners.

XI. If a Seaman be wounded in the Service of a Ship, or fall ſick during the Voyage, he ſhall be paid his Wages, and treated at the Charge of the Ship; and if he be wounded in fighting againſt Enemies or Pirates, he ſhall be cured at the Charge of Ship and Cargo.

XII. But if going aſhore without Leave, he be there wounded, he ſhall not be dreſs'd at the Charge of the Ship, nor of the Lading: And he may be diſmiſs'd without pretending any more than the Wages that are due to him.

XIII. The Heirs of a Seaman hir'd by the Month, and dying in the Voyage, ſhall be paid his Wages till the Day of his Deceaſe.

XIV. The half of the Wages of a Seaman hir'd by the Voyage ſhall be due to his Heirs if he dies outward bound, and the whole, if he dies in the Way home: And if he ſail'd by the Profit or Freight, his Heirs ſhall enjoy his full Share, if the Voyage be begun before his Death.

XV. The

XV. The Wages of a Seaman kill'd in defending the Ship ſhall be entirely paid as if he had ſerv'd all the Voyage; provided the Ship arrives ſafe at a good Harbour.

XVI. Seamen taken in Ships and made Slaves, ſhall pretend nothing againſt the Maſters, Owners, or Merchants for their Ranſom.

XVII. But if any of 'em (being ſent out for the Service of the Ship) be taken aſhore, or at Sea, his Ranſom ſhall be paid at the Expences of the Ship; and if he was ſent out for the Service of Ship and Cargo, his Ranſom ſhall be paid by both, if they arrive happily at a good Port: However, the whole ſhall not exceed three hundred Livres beſides his Wages.

XVIII. The Maſter, immediately after the Arrival of the Ship, ſhall take Care to regulate the Sums appointed for the Ranſom of Captives, and the Money ſhall be depoſited in the Hands of the principal Owner, who ſhall be oblig'd forthwith to apply it to that Uſe, under pain of four times the Value to be paid by him, for the Benefit of the Seamen that are in Servitude.

XIX. The Ship and Freight ſhall be ſpecially liable for the Seamens Wages.

XX. The Seamens Wages ſhall not contribute towards any Avaridge, except it be for the Ranſom of the Ship.

XXI. What is ordain'd in this Title for the Wages and Ranſom of the Seamen, and Dreſſing and Treating of the Sick, ſhall take place for the Officers and all others belonging to the Ship.

SECT.

SECT. XXX.

Of Contracts of BOTTOMRY, &c.

ARTICLE I.

ALL Contracts of Bottomry may be made either by a Publick Notary, or under a private Signature.

II. Money may be given upon the Body and Keel of the Ship, and upon her Rigging and Tackle, Munitions and Proviſions, jointly or ſeparately, and upon all, or any part of her Lading, for one whole Voyage, or for a Time limited.

III. We forbid all Perſons to take up, upon their Ships or Goods on board thereof, more than their real Value, under Pain of being oblig'd, in caſe of Fraud, to pay the whole Sums, notwithſtanding the Veſſel ſhould be loſt or taken.

IV. We alſo forbid, under the like Penalty, to take up any Money upon the Freight for the Voyage to be made, or upon the Profit expected on the Lading, or even upon the Seamens Wages; except it be in the Preſence and with the Conſent of the Maſter, and under one half of the aforeſaid Wages.

V. We moreover forbid all Perſons to advance any Money to Seamen upon their Wages and Voyages in that manner, except it be in the Preſence and with the Conſent of the Maſter, under Pain of Confiſcations of the Sums lent, and a Fine of fifty Livres.

VI The Maſters ſhall be anſwerable, in their Names, for the Total of the Sums taken up by the Seamen with their Conſent, except they exceed one half of their Wages, and that notwithſtanding the Loſs or Taking of the Ship.

VII. The Ship, her Rigging and Tackle, Munitions and Proviſions, and even the Freight, ſhall be by Privilege affected for the

the Payment of the Principal and Intereſt of Money given upon the Body and Keel of the Ship, for the Neceſſities of the Voyage, and the Lading.

VIII. Such as give Money upon Bottomry to a Maſter without the Conſent of the Owners, if they live in the Place, ſhall have no Security nor Privilege upon the Ship, any further than the Part that the Maſter may have in the Ship and Freight, tho' the Money was borrow'd for Rigging the Ship, or for buying Proviſions.

IX. However, the Parts of ſuch of the Owners as refuſe to furniſh their Proportions for fitting out the Veſſel, ſhall be affected for the Money lent to the Maſter for the Equipment and Proviſions of the Ship.

X. Creditors for Money formerly due for ſuch Things, ſhall not come in Competition with thoſe that have actually lent for the laſt Voyage.

XI. All Contracts of Bottomry ſhall be null, after the entire Loſs of the Effects upon which the Money was lent, if that happens by Accident, and within the Times and Places therein expreſs'd.

XII. Nothing ſhall be reputed *Accident* that is occaſion'd by the Naughtineſs of the Things themſelves, or by the Fault of the Owners, Maſter or Merchants, except it be otherwiſe provided by the Contract.

XIII. If the Time of the Riſque be not regulated by the Contract, it ſhall laſt as to the Ship, her Rigging, Tackle and Proviſions, from the Day ſhe ſets Sail, till ſhe arrives at her intended Port, and is moor'd at the Key; and as to the Goods, it ſhall laſt from the Moment they're laded on board the Ship or Lighter, to be carry'd thither, till they be unladed, and aſhore.

XIV. A Perſon lading Goods, and taking up Money upon them on Bottomry, ſhall not be acquitted by the Loſs of the Ship and Lading, unleſs he makes it appear that he had there, upon his own Account, Effects to the Value of the Sum ſo borrow'd.

XV. How-

XV. However, if the Perſon that has taken Money upon Bottomry, makes it appear that he could not lade Goods to the Value of the Sum borrow'd, the Contract (in caſe of Loſs) ſhall be diminiſh'd in Proportion to the Value of the Effects laded, and ſhall only ſubſiſt for the Overplus; of which the Borower ſhall pay the Intereſt, according to the Current Price of the Place where the Contract is made, till the actual Payment of the Principal: And if the Ship arrives in Safety, there ſhall be due only the Intereſt, and not the Maritime Profit of the Overplus of the Effects put aboard.

XVI. Thoſe that give Money upon Bottomry, ſhall contribute towards the eaſing of thoſe that take it in the groſs Avaridges, ſuch as Redemptions, Compoſitions, Ejections, Maſts and Ropes cut for the Common Safety of Ship and Goods; but not for the ſimple Avaridges, or particular Damages that may happen, except there intervene ſome Agreement to the contrary.

XVII. However, in Caſe of Shipwrack, the Contracts of Bottomry ſhall be reduc'd to the Value of the Effects that are ſav'd.

XVIII. If there be a Contract of Bottomry, and Inſurance upon the ſame Lading, the Lender ſhall be preferr'd to the Inſurers upon the Effects preſerv'd from Shipwrack, for his Capital, and no further.

SECT. XXXI.

Of INSURANCES.

ARTICLE I.

WE allow all our Subjects, as well as Strangers, to inſure, and cauſe to be inſur'd, within the Extent of our Dominions, the Ships, Goods and Effects, which ſhall be tranſported by Sea or by Navigable Rivers; and we allow the Inſurers to ſtipulate a Price, for which they will take the Peril upon them.

II. The

II. The Contract call'd *Policy of Inſurance* ſhall be reduc'd into Writing, and may be done under private Signature.

III. The Policy ſhall contain the Name and Dwelling-place of the Inſured, his Quality, whether of Owner or Factor, the Effects upon which Inſurance is made, the Name of the Ship and Maſter, that of the Place where the Goods are laded, and from whence the Ship departs, and that whither the Ship is bound, and where the Goods are to be unladed; and alſo the Names of all the Places where the Ship is to touch, the Time that the Riſque is to begin and end, the Sums inſur'd, the *Præmium* or Coſt of the Inſurance, the Submiſſion of the Parties to Arbitrators in Caſe of Conteſtation; and generally all other Conditions which they ſhall ſtipulate between them.

IV. However, Goods laded in *Europe* for the Ports of the *Levant*, the Coaſts of *Africa*, and other Parts of the World, may be inſur'd upon any Ship whatſoever, without naming either the Maſter or the Ship, provided the Name of the Perſon to whom they are conſign'd be expreſs'd in the Policy.

V. If the Policy does not regulate the Time of the Riſque, they ſhall be regulated as are the Contracts of Bottomry, by the thirteenth Article of the precedent Section.

VI. The *Præmium*, or Coſt of the Inſurance, ſhall be entirely paid at the ſigning of the Policy: But if the Inſurance be made upon Goods both outward and inward bound, and the Veſſel arriving at the intended Port, there be no Return made, the Inſurer ſhall reſtore one third of the *Præmium*, except there be a Stipulation to the contrary.

VII. Inſurances may be made upon the Body and Keel of a Ship, empty or laded, before or during the Voyage; upon the Proviſions and upon the Goods, jointly or ſeparately laded on board of any Ship, arm'd or unarm'd, alone or in Company, for the going out or coming home, for a whole Voyage, or a Time limited.

VIII. If the Inſurance be made upon the Body and Keel of the Ship, her Rigging, Tackle, Munitions, and Proviſions, or upon any Portion thereof, the Eſtimation ſhall be made in the Policy;

allowing the Inſurer (in Caſe of Fraud) to oblige the concern'd to proceed to a new Eſtimation.

IX. All Sea-faring Perſons, Paſſengers, and others, may inſure the Liberty of their Perſons; and in that Caſe the Policies ſhall contain the Name, Country, Reſidence, Age, and Quality, of the Perſon that inſures himſelf; the Name of the Ship, of the Port from whence ſhe ſails, and that of her laſt Departure; the Sum to be paid in caſe of being taken, as well for the Ranſom as the Charges of Returning; to whom the Money ſhall be paid, and under what Penalty.

X. We forbid all Inſurances upon the Lives of any Perſon.

XI. However, ſuch as redeem Captives may inſure the Lives of thoſe they redeem, and the Price of the Redemption; which the Inſurers ſhall be oblig'd to pay, if the Perſon redeem'd is taken again, or kill'd, or drown'd in his Return, or if he periſh by any other means but by a Natural Death.

XII. Women, may lawfully engage themſelves, and alienate their Patrimonial Eſtates, for the Redemption of their Husbands.

XIII. Any Perſon, who, upon the Wife's Refuſal, and by the Authority of Juſtice, lends Money for the Ranſom of the Husband ſhall be preferr'd to the Wife upon the Husband's Eſtate, except for the Reſtitution of her Patrimony.

XIV. *Minors* may, likewiſe, with the Advice of their Relations, contract ſuch Obligations for Ranſoming their Fathers, from Captivity, without any Poſſibility of Revocation.

XV. The Owners nor Maſters of Ships ſhall not inſure beforehand the Freight of their Ships, the Merchants, the Profit they expect by their Goods; nor the Seamen, their Wages.

XVI. We forbid all Perſons borrowing Money upon Bottomry to inſure it, under Pain of Nullity of the Inſurance and Corporal Puniſhment.

XVII. We likewiſe forbid (under the like Pain of Nullity) the Lenders upon Bottomry to inſure the Profit of the Sums lent.

XVIII. The

XVIII. The Perſons that inſure their Goods, ſhall ſtill run the Hazard of the tenth Part of the Effects they lade, except there be a poſitive Clauſe in the Policy, declaring that they mean to inſure the Whole.

XIX. And if the Inſured be in the Ship, or if they be the Owners, they ſhall nevertheleſs run the Riſque of one Tenth, tho' they declare that they mean to inſure the Whole.

XX. The Inſurers may re-inſure with others the Effects they have inſured, and the Inſured may likewiſe cauſe to be inſured the *Præmium* of the Inſurance, and the Solvability of the Inſurers.

XXI. The *Præmiums* of the Re-inſurance may be ſmaller or greater than thoſe of the Inſurance.

XXII. We forbid to cauſe to be inſur'd, or re-inſur'd, any Effects beyond their Value, by one or ſeveral Policies, under Pain of Nullity of the Inſurance and Confiſcation of the Goods.

XXIII. However, if there happens to be made without Deceit, a Policy exceeding the Value of the Effects laded, it ſhall ſubſiſt for the Value of the Goods: And in caſe of Loſs, the Inſurers ſhall be bound, every one for the Sum by him inſur'd, and likewiſe to reſtore the Overplus of the *Præmium*, retaining only a half *per Cent.*

XXIV. And if there happen to be ſeveral Policies likewiſe made without Deceit, and the firſt contains the Value of the Goods laded, it ſhall ſubſiſt alone, and the other Inſurers ſhall not be bound in the Inſurance, but ſhall render the *Præmium*, retaining only a half *per Cent.*

XXV. In caſe the firſt Policy does not amount to the Value of the Effects laded, the Inſurers of the ſecond ſhall be anſwerable for the Overplus; and if there be Effects laded to the Value of the Inſurance, in Caſe of the Loſs of ſome Part of them, it ſhall be paid by the Inſurers there mention'd at ſo much *per* * *Livre* of the Sums they are concern'd in.

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* *The* French, *in making Computations, do generally reckon ſo much* per Livre, *as we do* per Cent.

XXVI. All Loſſes and Damages happening at Sea by Tempeſt, Shipwrack, running aground or aboard of other Ships, changing of Courſe of Voyage or Ship, Ejection, Fire, Taking, Riffling, Stopping by Princes Declarations of War, Repriſals, and generally by all other Maritime Accidents, ſhall be at the Riſque of the Inſurers.

XXVII. However, if the changing of the Courſe, Voyage or Ship, happens by the Order of the Inſured, without the Conſent of the Inſurers, they ſhall be diſcharg'd from the Riſque; which ſhall likewiſe take place in all other Loſſes and Damages happening by the Fault of the Inſured; nor ſhall the Inſurers be oblig'd to reſtore the *Præmium*, if the Time of their bearing the Riſque be begun.

XXVIII. Nor ſhall the Inſurers be oblig'd to bear the Loſſes and Damages happening to Ships and Goods by the Fault of the Maſter and Mariners, except that by the Policy they be engag'd for the Malverſation of the Maſter.

XXIX. The Waſtes, Diminutions, and Loſſes, happening by the proper Naughtineſs of the Goods, ſhall not fall upon the Inſurers.

XXX. Nor ſhall they be concern'd in the Pilotage, Lodemanage, Duties of Paſsports, Searchings, Declarations, Anchorage, or in any others impos'd upon Ships or Goods.

XXXI. The Goods ſubject to Leakage ſhall be expreſs'd in the Policy; if not, the Inſurers ſhall not be anſwerable for Damages befalling them by Tempeſt, except the Inſurance be made upon Returns from foreign Countries.

XXXII. If the Inſurance for Goods be made ſeparately upon ſeveral Ships expreſs'd, and the whole Lading be put in one, the Inſurer ſhall only run the Riſque of the Sum inſured upon the Ship in which the Goods are laded, even tho' all the Ships together ſhould periſh; and he ſhall reſtore the *Præmium* of the Overplus, retaining only a half *per Cent.*

XXXIII. When the Maſters and Patrons have Liberty to touch at ſeveral Ports in the *Levant*, the Inſurers ſhall not run the Hazard of the Effects which ſhall be aſhore, tho' they be intended for the Lading they have inſured, and the Ship be in the Port to take them aboard; except there be an expreſs Clauſe for it in the Policy.

XXXIV. If

XXXIV. If the Inſurance be made for a limited Time, without expreſſing the Voyage, the Inſurer ſhall be diſcharg'd after the Expiration of the Time, and the Inſured may cauſe the Goods to be inſur'd again.

XXXV. But if the Voyage be expreſs'd in the Policy, the Inſurer ſhall run the Hazard of the whole Voyage; upon Condition however, that if it exceeds the limited Time, the *Præmium* ſhall be augmented in Proportion; nor ſhall the Inſurer be oblig'd to reſtore any thing, if the Voyage be ſooner ended.

XXXVI. The Inſurers ſhall be diſcharg'd from the Riſque, without loſing the *Præmium*, if the Inſured, without their Conſent, ſend the Ship to a Place farther diſtant than that mention'd in the Policy, tho' in the ſame Courſe: But the Inſurance ſhall have its full Effect, if the Voyage be only ſhorten'd.

XXXVII. If the Voyage be entirely broke before the Daparture of the Ship, tho' by the Fault of the Inſured, the Inſurance ſhall remain null; and the Inſurers ſhall reſtore the *Præmium*, all but a half *per Cent.*

XXXVIII. We declare void all Inſurances made after the Loſs, or Arrival of the Effects inſur'd, if the Inſured knew, or could know of the Loſs, or the Inſurer of the Arrival, before the ſigning of the Policy.

XXXIX. The Inſured ſhall be preſum'd to have known of the Loſs, and the Inſurer of the Arrival of the Effects inſur'd, if it be found that the News might have been brought from the Place of the Loſs or Arrival of the Ship, to that of the ſigning of the Policy, after either of theſe happen'd, and before the ſigning; allowing a League and a half *per* Hour, without the Prejudice of ſuch other Proofs as may be brought.

XL. However, if the Inſurance be made upon good or bad News, it ſhall ſubſiſt; except it be made appear, by other Proofs, than that of the League and half *per* Hour, That the Inſured knew of the Loſs, or the Inſurer of the Arrival of the Ship, before the ſigning of the Inſurance.

XLI. In Caſe of Proof againſt the Inſured, he ſhall be oblig'd to reſtore to the Inſurer what he has receiv'd, and pay him double.

the *Præmium*; and if there be Proof againſt the Inſurer, he ſhall be likewiſe condemn'd to the Reſtitution of the *Præmium*, and to pay the double to the Inſured.

XLII. When the Inſured receives Advice of the Loſs of the Ships or Goods inſur'd, of the Stopping thereof by any Prince, and other Accidents in which the Inſurers are concern'd; he ſhall be oblig'd to cauſe it forthwith to be ſignify'd unto them, or to the Perſon that has ſign'd the Policy for them, with Proteſtation to make his Ceſſion in Time of Place.

XLIII. However, the Inſured, inſtead of Proteſtation, may at the ſame Time make his Ceſſion, and ſummons the Inſurers to pay the Sums inſur'd, within the Time ſpecify'd in the Policy.

XLIV. If the Time of Payment be not ſpecify'd in the Policy, the Inſurers ſhall be oblig'd to pay the Inſurance within three Months after the Signification.

XLV. In Caſe of Shipwrack, or Running aground, the Inſured may endeavour to recover the Shipwrack'd Effects, without Prejudice of the Ceſſion, which he may make in Time and Place; and of the Re-imburſement of his Charges, as to which his Affirmation ſhall be believed, to the Value of the Effects preſerv'd:

XLVI. A Ceſſion ſhall not be made but in Caſe of being taken, wrack'd, run aground, ſtopp'd by a Prince, or the entire Loſs of the Goods inſur'd; and all other Damages ſhall only be reputed Avaridge, and ſhall be regulated between the Inſurers and Inſured, in Proportion to their Concerns.

XLVII. No Perſon can make a Ceſſion of one Part, retaining the other; nor any Demand for Avaridge, except it exceed one *per Cent.*

XLVIII. Ceſſions and all Demands for the Execution of a Policy, ſhall be made to the Inſurers within ſix Weeks after the News of Loſſes happen'd upon the Coaſts of the ſame Province where the Inſurance is made; and for thoſe that happen in another Province of our Kingdom, within three Months; upon the Coaſts of *England*, *Flanders* and *Holland*, four Months; upon thoſe of *Spain*, *Italy*, *Portugal*, *Barbary*, *Muſcovy* and *Norway*, one Year; and upon the Coaſts of *America*, *Brazil*, *Guiney*, and other remote Countries,

Countries, two Years; and that Time being expir'd, the Insurers shall not be heard in their Demands.

XLIX. In Case of a Ship's being stopp'd by any Prince, the Cessing shall not be made till six Months afterwards, if the Ship be stopp'd in *Europe* or *Barbary*; and a Year in remoter Countries; reckoning from the Day that that was signify'd to the Insurers: And in that Case, the Exception against the Insurers mention'd in the precedent Article, shall only commence from the Day that they may have begun to act therein.

L. However, if the Goods so stopp'd be perishable, the Cession may be made after six Weeks, if they be stopp'd in *Europe* or *Barbary*; and after three Months, if in a remoter Country; counting from the Day that the Stoppage was signify'd to the Insurers.

LI. The Insured shall be oblig'd during these Delays to use their utmost Endeavours to get the Arrest taken off the Effects that are stopp'd; and the Insurers may do it themselves, if they please.

LII. If a Vessel be stopp'd by Our Order, in any Port of Our Kingdom, before the Voyage be begun; the Insured may not, because of that Arrest, abandon his Effects to the Insurer.

LIII. The Insured shall be oblig'd, in making his Cession, to declare all the Insurances that he has caus'd to be made, and the Money taken on Bottomry upon the Effects insur'd; under Pain of being depriv'd of the Benefit of the Insurances.

LIV. If the Insured conceals any Insurances or Contracts of Bottomry, which, with these he declares, exceed the Value of the Effects insur'd, he shall be depriv'd of the Benefit of the Insurances, and oblig'd to pay the Sums borrow'd, notwithstanding the Loss or Taking of the Vessel.

LV. And if he sues for Payment of the Sums insur'd beyond the Value of his Effects, he shall further be punish'd exemplarily.

LVI. The Insurers of the Lading shall not be oblig'd to pay the Sums by them insur'd, beyond the Value of the Effects of which the Insured proves the Lading and the Loss.

LVII. The

LVII. The Juſtificative * Acts or Deeds of the Lading, and Loſs of the Effects inſur'd, ſhall be ſignify'd to the Inſurers immediately after the Ceſſion, and before they be ſued for Payment of the Sums inſur'd.

LVIII. However, if the inſured receives no News of his Ship, he may, after the Expiration of one Year (reckoning from the Day of Departure) for the ordinary Voyages, and after two Years for long Voyages, make his Ceſſion to the Inſurers, and demand Payment, without any Neceſſity of an Atteſtation for certifying the Loſs.

LIX. Voyages from *France* into *Muſcovy*, *Greenland*, *Canada*, *Newfoundland*, and other Coaſts and Iſlands of *America*, to the *Green Cape* and Coaſts of *Guiney*, and all other Places beyond the Tropick, ſhall be reputed long Voyages.

LX. After the Ceſſion is ſignify'd, the Effects inſured ſhall belong to the Inſurer; who muſt not, under Pretence of the returning of the Veſſel, delay to pay the Sums inſured.

LXI. The Inſurer may bring what Proofs he can againſt the Validity of the Atteſtations; but ſhall nevertheleſs be condemn'd by Proviſions to pay the Sums inſured; Security being given him by thoſe to whom he pays them.

LXII. A Maſter cauſing Goods laded on Board his own Ship for his own Account to be inſured, ſhall be oblig'd, in Caſe of the Loſs thereof, to prove the Buying of them, and to produce a Bill of Lading ſign'd by the Clerk and the Pilot.

LXIII. All Mariners and others, who ſhall bring Goods from Foreign Countries upon which they have caus'd Inſurance to be made in *France*, ſhall be oblig'd to leave a Bill of Lading in the Hands of the *French* Conſul or his Chancellor, if there be any in the Place where the Goods are laded; and if otherwiſe, in the Hands of ſome eminent Merchant of the *French* Nation.

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LXV. If Inſurance be made upon Returns from a Country where Trade is only carry'd on by Bartering, the Returns ſhall be made according to the Value of the Goods given in Exchange for them; including the Charges of their Tranſportation.

LXVI. In Caſe of being taken, the Inſured may redeem their Effects without the Order of the Inſurers, if they cannot give them Advice thereof; but they muſt afterwards inform them by writing of the Compoſition they have made.

LXVII. The Inſurers may take the Compoſition for their Benefit, in proportion to their Concerns; and in that Caſe they ſhall be oblig'd forthwith to make their Declaration, to contribute actually towards the Payment of the Ranſom, and to run the hazard of the Return; or otherwiſe to pay the Sums by them inſured, without having any Pretenſions upon the ranſom'd Effects.

LXVIII. We forbid all Makers of Policies, Clerks of the Chambers of Inſurance, Notaries, Brokers and others, to cauſe to be ſign'd any Policies where any Blank is left, under pain of all Damages and Charges; and likewiſe to draw up any, in which they themſelves are concern'd directly or indirectly by themſelves, or by Perſons interpoſed; or to take any Ceſſion of Right from the Inſured, under pain of five hundred Livres for the firſt time, and Deprivation of their Imployments in caſe of a Relapſe: Which Penalties ſhall not be in any manner moderated.

LXIX. We likewiſe enjoin them under the like Penalties, to have a Regiſter quoted and flouriſhed on every Leaf by the Lieutenant of the Admiralty, and therein to record the Policies they draw up.

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any Conteſtation happens, the other Party ſhall be oblig'd to conſent; or if otherwiſe, the Judge ſhall name for the Refuſer.

LXXI. Within eight Days after the Nomination of the Arbitrators, the Parties ſhall deliver the Deeds and Writings into their Hands; and within the eight Days following, they ſhall pronounce Sentence thereupon.

LXXII. Arbitral Sentences ſhall be homologated in the Court of Admiralty, within the Juriſdiction of which they are pronounced: And we forbid the Judge, under that Pretence, to take any Knowledge of the Cauſe, under Pain of Nullity, and all the Charges, Coſts and Damages of the Parties.

LXXIII. Appeals from Arbitral Sentences and Homologations, ſhall be carried before Our Courts of Parliament, and ſhall not be receiv'd till the Penalty expreſs'd in the Clauſe of Submiſſion be paid.

LXXIV. Arbitral Sentences may be executed, notwithſtanding the Appeals; Security being given before the Judges that homologate them.

SECT. XXXII.

Of AVARIDGES.

ARTICLE I.

ALL extraordinary Charges for the Ships and their Lading jointly or ſeparately, and all Damages which ſhall befal them from the Time of their Lading and Departure, till their Arrival and Unlading, ſhall be reputed *Avaridge*.

II. The extraordinary Charges for the Ship alone, or for the Goods alone, and the Damage befalling either in particular, ſhall be *Simple and Particular Avaridges*; and the extraordinary Charges paid

paid, and Damages ſuffer'd for the Common Good and Safety of Ship and Goods, ſhall be *Groſs* and *Common Avaridges*.

III. The Simple *Avaridges* ſhall be born and paid by the Owner of the thing that ſuffers the Damages, or occaſions the Charge; but the Groſs or Common *Avaridges* ſhall fall upon the Ship and Goods at ſo much *per Livre*, in proportion to their Value.

IV. The Loſs of Cables, Anchors, Sails, Maſts, and Ropes, occaſion'd by Tempeſt or any Maritime Accident, and Damage, happening to the Ship by the Fault of the Maſter or Company, by neglecting to ſhut cloſe the Hatches, moor the Ship, providing good Tackle and Ropes, or otherwiſe, are Simple *Avaridges*, and ſhall be born by the Maſter, Ship and Freight.

V. Damages happening to Goods by their own Badneſs, Tempeſt, being Taken, Shipwrack'd, or run aground; the Charges paid for preſerving them, and the Duties, Impoſitions and Cuſtoms, are likewiſe Simple *Avaridges*, for the Account of their Owners.

VI. Things given by Compoſition to Pirates, for Ranſom of the Ship and Lading; thoſe that are caſt into the Sea, Maſts or Cables broke or cut, Anchors and other Effects abandon'd for the Common Safety; Damage done to Goods remaining in the Ship by throwing over others; the dreſſing and treating Seamen wounded in the Defence of the Ship, and the Charges of Lightening to enter into a Port or River, or to get a Ship afloat, ſhall be Groſs or Common *Avaridges*.

VII. The Maintenance and Hire of the Seamen of a Ship ſtop'd by a Sovereign Prince's Order, ſhall likewiſe be reputed Groſs *Avaridges*, if the Ship be hir'd by the Month; but if by the Voyage, they ſhall be born by the Ship only, as Simple *Avaridges*.

VIII. The Lodemanage, Towage, and Pilotage for entring into, or going out of a River, are petty *Avaridges*; one third to be paid by the Ship, and the other two by the Goods.

IX. The Dues for the Paſsport, Search, Declaration, Anchorage, Buoys, and Sea-marks, ſhall not be reputed *Avaridges*, but ſhall be paid by the Maſter.

X. In Caſe of Ships running aboard of one another, the Damage ſhall be equally ſuſtain'd by thoſe that have ſuffer'd and done it, whether during the Courſe, in a Road, or in a Harbour.

XI. But if the Damage be occaſion'd by either of the Maſters, it ſhall be repair'd by him.

SECT. XXXIII.

Of Ejections and Contributions.

ARTICLE. I.

IF by Tempeſt, or being chas'd by Enemies or Pirates, the Maſter believes himſelf oblig'd to throw overboard part of his Lading, to cut or force his Maſts, or leave his Anchors; he muſt take the Advice of the Merchants, and principal Men of the Ship's Company.

II. If they differ in their Opinions, that of the Maſter and Ship's Company ſhall prevail.

III. The Utenſils of the Ship, and other things that are leaſt neceſſary, heavieſt, and of leaſt Value, ſhall be thrown overboard firſt; and afterwards the Goods between Decks: However, all muſt be done by the Order of the Captain, with the Advice of the Ship's Company.

IV. The Clerk, or ſuch other Perſon as performs his Function, ſhall inſert the Deliberation in his Book, as ſoon as poſſible; and ſhall cauſe it to be ſign'd by thoſe that Voted, or otherwiſe ſhall mention the Reaſon why they did not ſign; and ſhall take as exact an Account as he can of the Goods thrown overboard, or damnify'd.

V. At the firſt Port where the Ship touches, the Maſter ſhall declare before the Judge of the Admiralty, if any be: And if none

none, before the ordinary Judge, the Reaſon of the Ejection, of the cutting or forcing of his Maſts, or leaving of his Anchors; and if 'tis a Foreign Country he arrives, he ſhall make that Declaration before the *French* Conſul.

VI. TheMaſter ſhall take Care to make the Account of the Loſſes and Damages, at the Place where the Ship is unladed; and the Goods caſt away, and thoſe that are preſerv'd, ſhall be eſteem'd according to the Current Price thereof, at the ſaid Place.

VII. The Repartition for the Payment of Loſſes and Damages, ſhall be made upon the Goods loſt and preſerv'd, and upon the half of the Ship and Freight, at ſo much *per Livre*, according to their Value.

VIII. The better to judge of the Quality of Effects thrown overboard, the Bills of Lading, and Invoices (if there be any) ſhall be produced.

IX. If the Quality of Goods be miſrepreſented by the Bills of Lading, and they be found to be of greater Value than they were ſaid to be by the Merchant that laded them, they ſhall contribute, if ſav'd, in proportion to their real Value: But if loſt, ſhall only be paid according to the Bills of Lading.

X. And if on the other hand, the Goods are found to be of a meaner Quality, and be preſerv'd, they ſhall notwithſtanding contribute according to the Declaration; and if they be caſt away or damnify'd, they ſhall only be paid according to their Value.

XI. The Munitions, and Proviſions, and Seamens Cloaths and Wages ſhall not contribute towards the Ejection; but ſuch things as are caſt away ſhall be paid by Contribution, out of the other Effects.

XII. Effects, for which there is no Bill of Lading, ſhall not be paid, tho' thrown overboard; but if they're ſav'd, they ſhall nevertheleſs contribute.

XIII. There ſhall no Contribution be demanded for Paymens of ſuch Effects as were upon the Deck, if they be thrown overboard, or damnified by the Ejection; allowing the Owner his Recourſe againſt

againſt the Maſter: However, if they're preſerv'd, they ſhall contribute.

XIV. Nor ſhall any Contribution be made, for Damage befallen the Ship, except it be done of purpoſe to facilitate the Ejection.

XV. If the Ejection does not ſave the Ship, there ſhall be no Contribution; and the Goods that are ſav'd from Shipwreck, ſhall not be in any meaſure liable to pay the Loſs or Damage of thoſe that have been thrown away or ſpoil'd.

XVI. But if the Ship, being once preſerv'd by the Ejection, continuing her Courſe, comes afterwards to be loſt, the Effects that are preſerv'd ſhall contribute towards the Ejection, according to their Value, in the Condition they ſhall be in, Charges being firſt deduced.

XVII. The Effects caſt away ſhall not contribute in any Caſe, towards the Payment or Damages, happening after the Ejection, to the Goods that are preſerv'd; nor the Goods to the Payment of the Ship, if loſt, or broken.

XVIII. However, if the Ship be open'd by the Deliberator of the Chief Men of the Company, and of the Merchant, if any be, to take out the Goods; they ſhall in that Caſe contribute for the Reparation of the Damage done to the Ship, to take them out.

XIX. In Caſe of the Loſs of Goods put aboard of any Bark for lightening of a Ship entring into any River, Reparation ſhall be made by the whole Ship and Lading.

XX. But if the Veſſel periſh, with the reſt of it's Lading, no Reparation ſhall be made by Goods put out into Barges, tho' they arrive ſafe at their Port.

XXI. If the Owners of any Goods that ought to contribute, refuſe to pay their Proportion, the Maſter may, for the Security of the Contribution, retain, or by the Authority of Juſtice, may ſell Goods, to the Value of their ſaid Proportions.

XXII. If

XXII. If after the Reparation, the Effects thrown overboard be recover'd by the Owners, they ſhall be oblig'd to reſtore to the Maſter, and the others concern'd, what they have receiv'd of the Contribution, deducing for the Damage cauſed to their Goods by the Ejection, and for the Charges of recovering them.

SECT. XXXIV.

of PRIZES.

ARTICLE I.

NO Perſon ſhall fit out a Ship for War, without a Commiſſion from the Admiralty.

II. Such as obtain Commiſſions for equipping Ships for War, ſhall be oblig'd to cauſe it to be recorded at the Admiralty-Office, where the Ship is fitted out, and to give Security for the Sum of fifteen thouſand Livres; which ſhall be receiv'd by the Lieutenant in Preſence of our Attorney.

III. We forbid our Subjects to take Commiſſions from any Foreign Kings, Princes or States, to arm Ships for War, and ſail under their Flags; except it be by our Order, under pain of being treated as Pirates.

IV. All Veſſels belonging to our Enemies, or Commanded by Pirates, Buccaneers, and others, ſailing without the Commiſſion of any Sovereign Prince or State, ſhall be good Prize.

V. All Veſſels fighting under another Flag than that of the Nation whoſe Commiſſion they carry, or having Commiſſion from two different Princes or States, ſhall likewiſe be good Prize; and if they be arm'd for War, the Captains and Officers ſhall be puniſh'd as Pirates.

VI. All

VI. All Veſſels and their Lading, in which there are no Charter-Parties, Bills of Lading, nor Invoices, ſhall likewiſe be good Prize: And We forbid our Captains, Officers and Seamen of Ships taking them, to divert them, under pain of Corporeal Puniſhment.

VII. All Ships having Effects on board belonging to our Enemies, and the Goods of our Subjects or Allies, on board of Enemies Ships, ſhall likewiſe be good Prize.

VIII. If any of our Subjects Ships be retaken from our Enemies, after having been four and twenty Hours in their Hands, they ſhall be good Price; and if 'tis before four and twenty Hours, they ſhall be reſtor'd to the Owners with all that is in them; and one third ſhall be given to the Ship that retakes them.

IX. If the Ships without being retaken, be abandon'd by the Enemy, or if by Tempeſt or any other Accident, they return into the Poſſeſſion of our Subjects, before they have been carryed into any Enemy's Ports, they ſhall be reſtor'd to the Owner, who ſhall reclaim them within the Year and Day; tho' they have been more than four and twenty Hours in the Enemy's Poſſeſſion.

X. The Ships and Effects of our Subjects and Allies, retaken from Pirates, and reclaim'd within a Year and Day after the Declaration made to the Admiralty, ſhall be reſtor'd to the Owners, they paying one third of the Value for the Charges of the Retaking.

XI. The Arms, Powder, Ball, and other Munitions of War, even the Horſe and Furniture, tranſported for the Service of our Enemies, ſhall be confiſcated in whatever Veſſels they be found, and to whoſoever they belong, whether they be our Subjects or our Allies.

XII. All Veſſels refuſing to ſtrike and bring to, upon the Summons of our Ships, or thoſe of our Subjects arm'd for War, may be compell'd thereto by Artillery, or otherwiſe; and in Caſe they reſiſt and fight, they ſhall be good Prize.

XIII. We forbid all Captains of Veſſels arm'd for War to detain thoſe of our Subjects or Allies who have brought to, and ſhow'd their

their Bills of Lading and Charter-Parties; or to take, or ſuffer any thing to be taken from them, under pain of Death.

XIV. No Veſſel taken by Foreigners may remain above four and twenty Hours in our Ports and Harbours; except they be detained there by Tempeſt, or be taken from our Enemies.

XV. If in the Prizes brought into our Ports by Foreigners, here be found Goods belonging to our Subjects or Allies, thoſe belonging to the former ſhall be reſtor'd, and thoſe of the latter ſhall not be put in Warehouſes, nor bought by any Perſon under any Pretence whatſoever.

XVI. As ſoon as the Captains of arm'd Veſſels, ſhall render themſelves Maſters of any Ships, they ſhall ſeize their Licenſes, Paſsporrs, Sea-Letters, Charter-Parties, Bills of Lading, and all other Papers concerning their Lading and Voyage; together with the Keys of their Cheſts, Trunks and Chambers; and ſhall cauſe to be ſhut the Hatches and other Places where there is any Goods.

XVII. We enjoin all Captains that take Prizes, to bring or ſend them, with the Priſoners, to the Ports where they arm'd, under pain of loſing their Rights, and of an Arbitrary Fine; except they be oblig'd by Tempeſt or Enemies, to put into ſome other Port; in which Caſe they ſhall forthwith acquaint the Concern'd.

XVIII. We forbid, under pain of Death, all Captains, Soldiers and Seamen; to ſink the Ships they take, and put aſhore the Priſoners upon Remote Coaſts or Iſlands, in order to conceal the Prize.

XIX. And where the Takers are not in a Condition to take out Charge of the Ship taken, and of the Priſoners, and only take out the Goods, or agree for a Ranſom; they ſhall be oblig'd to ſeize the Papers, and bring with them at leaſt the two Principal Officers of the Prize; under pain of being depriv'd of what may belong to them therein, and of Corporal Puniſhment, *&c.*

XX. We forbid them to open any Cheſts, Bales, Sacks, Pipes, Barrels, Casks or Trunks, or to tranſport or ſell any Goods of the Prize; and we likewiſe forbid all Perſons to buy them before the Prize be condemn'd, or till it be ordained by Authority; under pain of Reſtitution of fourfold, and Corporal Puniſhment.

XXI. As ſoon as the Prize is brought into any Road or Port of our Kingdom, the Captain that has taken her, if he be there, and in his Abſence, the Perſon that is intruſted with her, ſhall be oblig'd to make his Declaration to the Officers of the Admiralty, to ſurrender into their Hands the Papers and the Priſoners, and declare to them the Day and Hour, Place and Degree of Latitude in which the Veſſel was taken, whether the Captain refus'd to ſhow his Commiſſion, or his Paſsport; whether he attack'd, or only defended himſelf; what Flag he bore, and all the other Circumſtances of the Taking and Voyage.

XXII. After the Delivery of the Declaration, the Officers of the Admiralty ſhall immediately go aboard of the Price, whither ſhe be in the Road or in the Port; and ſhall draw up a Verbal Proceſs of the Quantity and Quality of the Goods, and of the Condition in which they find the Cabins, Trunks, Hatches and Hold; which they ſhall afterwards cauſe to be ſhut, and ſeal'd with the Seal of the Admiralty; and they ſhall there eſtabliſh a Watch, to take Care of what they have ſeal'd, and prevent the Imbezlement of the Effects.

XXIII. The Officers of the Admiralty ſhall make their Verbal Proceſs in Preſence of the Captain or Maſter of the Prize; and in his Abſence, before the two Principal Officers and Seamen belonging to him; together with the Captain or other Principal Officers of the Ship that took the Prize; and likewiſe in Preſence of the Reclaimers, if any be.

XXIV. They ſhall hear, concerning the Matter of the Prize, the Maſter or Commander thereof, and the principal Men of his Company; and likewiſe ſome of the Officers and Seamen of the Ship that took her, if 'tis neceſſary.

XXV. If the Ship be brought in without Priſoners, Charter-Party, or Bill of Lading, the Officers, Soldiers, and Seamen of the Ship that took her, ſhall be examin'd ſeparately upon the Circumſtances of the Prize; and how the Ship came to be brought in without Priſoners; and the Ship and Goods ſhall diſcover, if poſſible, to what Nation they did belong.

XXVI. If by the Depoſition (or Oath) of the Company, and the Search and View of the Ship and Goods, it cannot be diſco-

ver'd

ver'd of whom they have been taken, an Inventory ſhall be taken of the whole, and it ſhall be apprais'd, and put into ſafe Cuſtody, to be reſtor'd to whomſoever it may belong, if reclaimed within a Year and a Day; and if otherwiſe, it ſhall be divided as a Wreck between us, the Admiral, and the * *Armateur*.

XXVII. If it be neceſſary before the Condemnation of a Prize, to take the Goods out of the Ship, to prevent their being damnify'd; an Inventory ſhall be made in Preſence of our Attorney, and of the Parties concern'd, who ſhall ſign it if they can write; and afterwards the Goods ſhall be deliver'd into the Hands of ſome ſufficient Perſon, or in Warehouſes lock'd with three different Keys; of which one ſhall be given to the *Armateur*, another to the Receiver of the Admiral, and the third to the Reclaimer, if any be; and if none, to our Attorney.

XXVIII. Goods which cannot be kept, ſhall be ſold at the Deſire of the Parties concern'd, and adjudg'd to the faireſt Offerer, in the Preſence of our Attorney, at the ſhutting up of the Court, after three Delays of the Sale, from three Days to three Days; the Port-Sales or Publication being duely made beforehand, and the Placards affixed in the uſual Places.

XXIX. The Price of the Sales ſhall be conſign'd in the Hands of a ſufficient Merchant, to be deliver'd after the Adjudication of the Prize, to whom it ſhall belong.

XXX. We enjoyn the Officers of the Admiralty to proceed inceſſantly to the Execution of Decrees and Sentences given concerning Prizes; and to cauſe the Veſſels, Goods, and Effects, for which a Replevy ſhall be ordain'd, to be deliver'd immediately, and without Delay; under pain of Interdiction of a Fine of five hundred Livres; and of all Coſts, Charges, and Damages.

XXXI. Before the Prepartition, the Charges of the Unlading, and of the keeping of the Ship and Goods, ſhall be deduced; according to the Account which ſhall be ſtated by the Lieutenant of the Admiralty, in the Preſence of our Attorney, and the Parties concern'd.

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* Armateur *is the Deſignation given in* France *to Merchants or others concern'd as Owners, in the arming of Privateers*, &c.

XXXII. After the aforeſaid Deduction, the Tenth of the Price ſhall be deliver'd to the Admiral, and the Charges of the Court ſhall be taken out of the Remainder; which ſhall be afterwards divided amongſt the Parties concern'd, according to the Conditions of their Partnerſhip.

XXXIII. If there be no Contract of Partnerſhip, two Thirds ſhall belong to them that have furniſh'd the Veſſel with Munitions, Arms and Proviſions; and the other to the Officers, Seamen and * Soldiers.

XXXIV. We forbid the Officers of the Admiralty to become directly, or indirectly the Parties to whom Veſſels, Goods or Effects belonging to Prizes are adjudg'd, under pain of Confiſcation, a Fine of fifteen hundred Livres, and Interdiction of their Officers.

SECT. XXXV,

Of Letters of Mark and Repriſal.

ARTICLE I.

THoſe of Our Subjects whoſe Ships or other Effects are arreſted in Time of Peace by the Subjects of other States, ſhall be oblig'd, before they have Recourſe to Our *Letters of Repriſal*, to cauſe the Judge of the Admiralty neareſt the Place of their Deſcent to be inform'd of the Detention of their Effects, and to cauſe the Eſtimation thereof to be made by expert Perſons, whoſe Buſineſs that is; into whoſe Hands they ſhall deliver the Charter-

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* *By* Soldiers, *in this and ſeveral other Articles of this Title, is only meant ſuch Land-men as enter themſelves on board of Privateers, only for Fighting; and thoſe go for the moſt part,* No purchaſe, no pay: *For they have no regular and diſciplin'd Troops on board their Privateers in* France, *no more than elſewhere.*

Parties,

Parties, Bills of Lading, and other Deeds and Writings for juſtifying the Condition and Quality of the Veſſel and Lading.

II. Upon the making of the Information and the Verbal Proceſs, juſtifying the Value of the Effects taken and detain'd, our Subjects may apply to Us for obtaining Our Letters of Repriſal; which, however, ſhall not be granted them, till after We have caus'd to be made by our Ambaſſador the Inſtances in the Time and Manner, agreed to by our Treaties with the States and Princes, whoſe Subjects have committed theſe Depredations.

III. The Letters of Repriſal ſhall mention the Value of the Effects taken and detain'd, and ſhall bear Permiſſion to arreſt and ſeize thoſe of the State which has refus'd to reſtore the ſame; and ſhall likewiſe regulate the Time that they ſhall be valid.

IV. Thoſe that obtain Letters of Repriſal, ſhall be bound to cauſe them to be recorded at the Admiralty Office of the Place where they ſhall arm; and to give Security to the Value of the half of the Effects taken from them, before the Officers of the Admiralty.

V. The Prizes taken at Sea, by Virtue of our Letters of Repriſals, ſhall be brought in, and judg'd in the ſame Form and Manner as thoſe taken from our Enemies.

VI. If the Prize be declar'd Good, the Sale ſhall be made before the Judge of the Admiralty, and the Price ſhall be deliver'd to the Perſons to whom the Letters of Repriſal were granted, to the Value of the Sum therein contain'd; and the Remainer ſhall be depoſited at the Office of the Admiralty, to be reſtor'd to thoſe to whom it ſhall belong.

VII. The Obtainers ſhall be oblig'd, in receiving their Money, to write upon the back of the Letters of Repriſal the Sums by them receiv'd, and to give a good and valid Diſcharge, which ſhall be depoſited at the Admiralty-Office, to remain join'd to the Proceſs.

VIII. If what is expos'd in the Letters be not found to be true, the Obtainers thereof ſhall be condemn'd to pay the Coſts and Damages of the Owners of the Effects that are ſeiz'd, and to reſtore fourfold the Sums they have receiv'd.

SECT.

SECT. XXXVI.

Of Wills; and of the Succeſſion of ſuch as dye at Sea.

ARTICLE I.

WILLS or Teſtaments made at Sea by ſuch as die in Voyages, ſhall be reputed valid, if they are written and ſign'd by the Hand of the Teſtator or Defunct, or receiv'd by the Clerk of the Ship in the Preſence of three Witneſſes, ſigning with the Teſtator; and if the Teſtator cannot write, or be ſo ill that he cannot ſign, the Reaſon why he did not ſign ſhall be mention'd.

II. No Perſon ſhall have Power by a Will receiv'd by the Clerk, to diſpoſe of any thing but the Effects he has in the Ship, and the Wages that are due to him.

III. Nor ſhall theſe Depoſitions be valid for the Benefit of the Officers, except they be of Kin to the Teſtator.

IV. Immediately after the Deceaſe of thoſe that die at Sea, the Clerk, by the Order of the Maſter, ſhall take an Inventory of the Effects left by them in the Veſſel, in preſence of their Relations, if any be; and if not, before two Witneſſes, who ſhall ſign it.

V. The Effects of the Defunct ſhall remain in the Cuſtody of the Maſter; who ſhall be oblig'd, upon his Return, to deliver them into the Hands of his Heir, Legatees, or others to whom they ſhall belong.

VI. If the Effects left by ſuch as have made no Wills be laded for Foreign Countries, the Maſter may negotiate with them, and bring back the Product at his Return; in which Caſe, beſides his Freight, he ſhall be paid Commiſſion.

VII. He

VII. He may likewiſe ſell the Clothes and Neceſſaries of the Mariners and Paſſengers that dye aboard, and cauſe them for that purpoſe to be brought to the Foot of the Maſt, and deliver'd to the faireſt Offerer; of which an Account ſhall be kept by the Clerk, and by the Maſter.

VIII. We forbid, under pain of exemplary Puniſhment, all Officers Military and Civil, eſtabliſh'd in the Iſlands and Countries of our Obedience, to ſeize the Effects of Mariners and Paſſengers dead on Shipboard, or to hinder the Sale or Tranſportation thereof, under any Pretence whatſoever.

IX. The Clothes of Mariners and Paſſengers dying without Heirs, and without making any Will, ſhall be beſtow'd for procuring Prayers to God for them; and of their other Effects on Shipboard, one Third ſhall be deliver'd to Our Receiver, one Third to the Admiral, and the other Third to the Hoſpital of the Place to which the Ship ſhall return; the Debts of the Defunct being firſt paid.

X. The Repartition above ordain'd, ſhall not be made till a Year and Day after the Return of the Ship; during which Time, the Effects ſhall be depoſited in the Hands of ſome Reſponſible Merchant.

XI. If the Effects left cannot be kept a Year and Day without a conſiderable Diminution, they ſhall be ſold by the Authority of the Officers of the Admiralty, and the Price depoſited as above.

SECT. XXXVII.

Of PORTS *and* HARBOURS.

ARTICLE. I.

THE Ports and Harbours ſhall be maintain'd in their Depth and Cleanneſs; We forbid all Perſons to caſt any thing into them that may obſtruct the ſame, under pain of a Fine of ten Livres, payable by Maſters for their Servants; and by Fathers and Mothers for their Children.

II. There ſhall always be Seamen aboard of the Ships in the Harbour, to facilitate the Paſſage of Veſſels coming in and going out, clear the Cable-Ropes, *&c.* and to do all the neceſſary Work; under pain of a Fine of Fifty Livres, againſt the Maſters and Patrons.

III. The Mariners ſhall not make faſt their Veſſels, but to the Rings and Stakes appointed for that Uſe; under pain of an Arbitrary Fine.

IV. The Maſters who firſt make their Declarations, ſhall have the firſt* Births at the Key for their Veſſels; from whence they ſhall be oblig'd to retire immediately after they are unladed.

V. Maſters and Patrons of Ships, who would remain at Anchor in Ports, ſhall be oblig'd to keep out Buoys and other Marks for diſcovering them, under pain of fifty Livres, and Reparation of all Damages that may thereby happen.

VI. Such as have Powder in their Ships ſhall be oblig'd, under pain of fifty Livres, to carry it aſhore immediately after their

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* *This* Word Birth, *in the Language of the Sea, ſignifies the Place aſſign'd for a Ship to lie in, when in Harbour.*

Arrival;

Arrival; and ſhall not carry it aboard again, till they be out of the Harbour.

VII. Merchants and Factors ſhall not leave their Goods upon the Keys above three Days; after which Time they may be remov'd by the Maſter of the Key, if any be; and if not, by our Attorney in the Court of Admiralty, at the Charge of the Owners, who ſhall likewiſe pay an Arbitrary Fine.

VIII. There ſhall be Places appointed in every Port and Harbour for Refitting and Caulking of Ships, and pitching of the Ropes; for which purpoſe, Fires ſhall be kindled at the Diſtance of one hundred Foot (at leaſt) from all other Ships, and twenty Foot from the Key; under Pain of fifty Livres for the firſt Fault, and a greater Fine in caſe of a Relapſe.

IX. Maſters and Owners of Ships, being in Ports where there is Ebbing and Flowing, ſhall be oblig'd, under the like Penalty, to have always two Puncheons of Water upon the Deck, while they are baking of Bread; and in Ports where they are never a-ground, they ſhall be well provided with Buckets and other Veſſels fit for drawing * Water.

X. There ſhall likewiſe be Births, or Places to lye in, appointed for laded Ships, and others for thoſe that are unladed; as likewiſe for pulling to Pieces old Ships, and building new ones.

XI. The Owners of old Ships, out of a Condition to ſail, ſhall be oblig'd to pull them to Pieces, and forthwith to remove them; under Pain of Confiſcation, and of a Fine of fifty Livres, to be apply'd to the Reparation of the Keys, Banks and Peers.

XII. Thoſe that dig Holes in Ports, wherein to put their Ships to be refitted, ſhall be oblig'd under the like Penalty of fifty Livres, to fill them up again within four and twenty Hours after their Ships are out of them.

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* *The Deſign of this Article is to oblig'd all Maſters of Ships to be well provided with Neceſſaries for enabling them ſpeedily to extinguiſh any accidental Fire which may happen; as plainly appears by the Contents.*

XIII. We injoin all Maſons, and others, imploy'd in the Reparation of Walls, Banks, Peers, Canals, Harbours and Docks, to remove all the Incumbrances, and make the Places clear, immediately after their Work is finiſh'd; under pain of an Arbitrary Fine, and of having Places clear'd at their Expences.

XIV. We forbid all Perſons to keep, or light, during the Night, any Fire in the Ships lying in Docks and Harbours; except in Caſes of urgent Neceſſity, and in the Preſence, or with the Conſent of the Maſter of the Key.

XV. We moſt expreſly injoin all Victuallers, Inn-keepers and Maſters of publick Houſes, ſelling Tobacco, Syder, Beer or Brandy, *&c.* upon the Keys, to ſhut up their Doors before Night; and we forbid them to let any Perſon come in, or go out, before Day; under pain of fifty Livres for the firſt Fault, and to be expell'd the Place for the ſecond.

XVI. Any Perſon that ſteals Ropes, Iron, or Utenſils of Ships lying in Ports, ſhall have the Figure of an Anchor imprinted upon him with a hot Iron, and for ever baniſh'd from the Place where the Fault was committed; and if by cutting or ſtealing the Cables the Ship happens to be loſt, or any Perſon to loſe his Life, the Offender ſhall be puniſh'd with Death.

XVII. We forbid all Perſons, under pain of Corporal Puniſhment, to buy of the Mariners and Seamen any Ropes, Iron or Utenſils of Ships.

XVIII. We likewiſe forbid all Perſons, under the like Penalty, to make or ſell any Tow or Hards of old Ships Ropes, except it be by the Order of the Maſters or Owners of the Ships, who may only diſpoſe of thoſe that are made of the old Ropes of their own Ships.

XIX. We forbid, under pain of *Extortion*, to exact any Duties of Cuſtom, Quayage, Sea-marks, Ballaſting, Unballaſting or Anchorage; except ſuch as are expreſs'd by a publick Bill or Placard, approv'd by the Officers of the Admiralty, and affix'd in the moſt patent and moſt apparent Place of the Port.

XX. The Stakes and Rings appointed for the making faſt of Ships, and the Keys built for lading and unlading Goods, ſhall be

be maintain'd and repair'd out of the publick Treaſure of the Towns; and the Mayors and Aldermen ſhall be oblig'd to look after them under pain of being anſwerable therefore themſelves.

XXI. However, thoſe that enjoy the Duties and Cuſtoms of Quayage in the Ports and Harbours, ſhall be oblig'd to repair the Keys and Rings; under penalty of being depriev'd of their Dues, which ſhall be apply'd to the Reparation of the Ruins which ſhall there be found.

XXII. * We injoin the Mayors, Aldermen, Syndics, Jurats, Capitohls, and Conſuls of Towns, where the Sinks and Common-Shores are empty'd into the Harbours, to cauſe forthwith Iron-Gates to be put in them; and we injoin the Officers of the Admiralty, to look to the Execution hereof, under pain of being anſwerable for it themſelves.

XXIII. We do not, however, mean by the preſent Ordinance, to derogate from the particular Regulations eſtabliſh'd for the Polity of ſome Ports, the being duly authoriz'd; nor in any manner to prejudice the Jurats, Aldermen, and other Judges who have the Cognizance thereof; for which purpoſe the Deeds and Regulations, proving their Competency, ſhall be by them put into the Hand of the Secretary of State, in whoſe Province their Marine Department lies, within ſix Months after the Publication of this Ordinance; in Default of which it ſhall be put in Execution, without any Regard to them, according to its Form and Tenour.

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* *Tho' the ſeveral Names of Magiſtrates here mention'd be for the moſt part unknown to us in* England, *they are all much of the ſame Nature as thoſe by which our own Corporation-Towns are govern'd. And as to the Grates which they are enjoin'd to put up in the Sinks, they are to prevent the Harbours being fill'd up with any thing that may prejudice their Depth or Cleanneſs, and render them uncapable of receiving Ships before the Keys.*

SECT. XXXVII.

Of the Maſter of the KEY.

ARTICLE. I.

THE Maſters of the Key ſhall take an Oath before the Lieutenant of the Admiralty, and ſhall cauſe their Commiſſions to be recorded at the Admiralty-Office of the Place of their Eſtabliſhment.

II. They ſhall take Care to range and moor the Ships in the Port, and ſhall have an Eye to every Thing that concerns the Polity of the Keys, Ports and Harbours; and ſhall cauſe the neceſſary Summonſes to be given upon that Account.

III. They ſhall be oblig'd in the Abſence of the Captain of the Port, when any of our Ships are in the Harbour, to make the neceſſary Rounds about the Docks, and to lie every Night aboard the Admiral.

IV. They ſhall hinder any Fire to be made, either Day or Night, on board of Merchant-Ships, Barks, or Boats, either at Anchor or moor'd in the Port, while any of our Ships are there.

V. They ſhall appoint the proper Places for laying up, refitting, and caulking Ships, and tarring the Ropes, and for ballaſting and unballaſting; and ſhall take Care to put up and keep up the Fires, Buoys, and Sea-marks, in the neceſſary Places, according to Cuſtom.

VI. We enjoyn them to view every Month, and likewiſe after every Storm that happens, the ordinary Canals and Paſſages of Ships, to diſcover whether the Channel be not chang'd, and to make their Report to the Admiralty; under the Penalty of fifty Livres for the firſt Fault, and Deprivation of their Offices for the ſecond.

VII. They

VII. They may cut (in Caſe of Neceſſity) the Ropes, *&c.* which Maſters or other Perſons in any Ship refuſe to ſlacken, after having verbally enjoyn'd them ſeveral Times to do it.

SECT. XXXIX.

Of PILOTS,* LODES-MEN.

ARTICLE I.

IN Places where it is found neceſſary to eſtabliſh Pilots, Lodes-men to conduct Veſſels into, and out of the Entries of Ports and Navigable Rivers, their Number ſhall be regulated by the Officers of the Admiralty, with the Advice of the Aldermen and moſt eminent Merchants of the Place.

II. No Perſon ſhall exert that Function till he's arriv'd to the Age of five and twenty, and receiv'd before the Officers of the Admiralty, after having been examin'd in their Preſence, and in that of two Aldermen, or eminent Merchants, and two antient Pilots, with the like Number of antient Maſters of Ships.

III. The Pilots, Lodes-men, ſhall be examin'd of the Knowledge and Experience they ought to have of the Fabrick and Working of Ships, and of the Courſes of the Tide, of the Sand-banks, Currents, Shelves, Rocks, and other Impediments that may render difficult the Entry of the Rivers, Ports and Harbours in which they are eſtabliſh'd.

IV. They ſhall be oblig'd to have their Shallops always provided with Anchors and Oars, and to be in a condition to go to

* *By that ſort of Pilots, are meant only thoſe that guide and conduct the Ships in going in, and coming out of Rivers and Harbours,* &c. *and not thoſe that have the Direction of their Courſe at Sea; as will plainly appear by the Contents of this Title.*

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ſuccour Ships upon the firſt Order or Signal, under the Pain of ten Livres, and a greater Penalty, according to the Exigence of the Caſe.

V. We forbid, under pain of Corporal Puniſhment, all Mariners, not being receiv'd Pilots, Lodes-men, to offer themſelves to conduct Ships into, or out of Ports or Rivers.

VI. However, the Maſters of Ships, for want of Pilots, may make uſe of Fiſhermen to conduct them.

VII. If a Pilot comes aboard a Ship, where there is already a Fiſherman, before ſhe be paſt the dangerous Places, the Pilot ſhall be receiv'd, but the Fiſherman's Hire ſhall be deducted from his.

VIII. A Pilot undertaking to conduct a Veſſel while he's drunk, ſhall be fin'd in five Livres, and ſhall not exert the Function of Pilot during one Month.

IX. We enjoin the Pilots to conduct firſt the Ships that firſt require their Service; and we forbid them to prefer the moſt remote to the neareſt, under pain of five and twenty Livres.

X. We likewiſe forbid them to go farther than to the Roads, to meet Veſſels coming into Ports or Harbours, to go aboard of Ships without the Maſter's Conſent, and to leave the Ships they bring in, till they're come to an Anchor and moor'd in the Port; and thoſe they carry out, till they're in the High-Sea, under pain of the Loſs of their Wages, and a Fine of thirty Livres.

XI. The Maſter of the Ship ſhall be oblig'd, as ſoon as the Pilot gets aboard, to tell him how much his Veſſel draws, under pain of five and twenty Livres Fine, to the Benefit of the Pilot, for every Foot conceal'd.

XII. In every Port, there ſhall be made, at the Suit of our Attorney, with the Advice of the Magiſtrates or two eminent Merchants, a Regulation for the Wages of Pilots; which ſhall be inſerted in a publick Writing, and a Copy of which ſhall be left in the Admiralty-Office, and another affix'd upon the Key.

XIII. The Pilots and Mariners ſhall not exact greater Sums than thoſe ſpecify'd by the Regulation, under pain of Corporal Puniſhment

ment, except it be in Time of a Storm and imminent Danger; in which Caſe the Officers of the Admiralty, with the Advice of two Merchants, may tax their Wages higher, having Regard to the Work they have done, and the Danger they have run.

XIV. We declare null, all Promiſes made to Pilots and Mariners while in Danger of Shipwreck.

XV. We injoin the Pilots daily to view the Roads of the places where they are eſtabliſh'd, to hoiſe the Anchors left there, and within four and twenty Hours afterwards, to make their Declarations to the Officers of the Admiralty.

XVI. If they diſcover any Alteration in the Channel, and ordinary Paſſage of Ships, or that the Buoys and Sea-Marks are not right plac'd, they ſhall be oblig'd under pain of ten Livres, to acquaint the Officers of the Admiraltry, and the Maſter of the Key therewith.

XVII. It ſhall be free for the Maſters and Captains of *French* or Foreign Ships, to take ſuch Pilots as they pleaſe to conduct them into the Ports and Harbours, without being oblig'd to make uſe of the ſame to conduct them out again.

XVIII. A Pilot that ignorantly runs a Ship aground, ſhall be whipp'd by the Hand of the Hangman, and for ever depriv'd of his Imployment; and as for ſuch as maliciouſly and deſignedly run a Ship upon a Rock, or Bank, or Shore, he ſhall be puniſh'd with Death, and his Body hung up upon a Maſt that ſhall be planted near the Place of the Shipwreck.

SECT.

SECT. XL.

Of Ballaſting and Unballaſting.

ARTICLE I.

ALL Captains and Maſters of Ships coming from Sea, ſhall be oblig'd, in making their Declaration to the Officers of the Admiralty, to declare the Quantity of Ballaſt they have aboard; under the Penalty of twenty Livres.

II. The Syndics and Aldermen of Towns and Corporations, ſhall be oblig'd to appoint, and provide, if need be, neceſſary and ſufficient Places for containing the Ballaſt, ſo that it be not carried away by the Sea.

III. After the Unballaſting of Ships, the Maſters of the Boats and Lighters imploy'd in it, ſhall be oblig'd, under the Penalty of three Livres, to declare to the Officers of the Admiralty, the Quantity of Tuns they have taken out.

IV. All Ships, taking aboard or unlading of Ballaſt, ſhall have a Canvas which ſhall reach from the Gunnel of the Ship to the Lighter; under the Penalty of fifty Livres, to be paid ſolidarily by the Maſters of the Ships and Lighters.

V. All other Mariners may be employ'd in Ballaſting and Unballaſting of Ships, with the Ship's Company.

VI. We forbid all Captains and Maſters of Ships to throw their Ballaſt into the Ports, Canals, Docks and Roads; under the Penalty of five hundred Livres for the firſt Fault, and of the Seizure and Confiſcation of their Ships for the ſecond: And we forbid theſe that are employ'd in Unballaſting, to carry it elſewhere than to the Places appointed for it; under Pain of corporal Puniſhment.

VII. We

VII. We likewiſe forbid, under the like Penalty, the Captains and Maſters of Ships to unballaſt them; and the Maſters and Patrons of Boats and Lighters to work at the Unballaſting of them during the Night.

VIII. We enjoyn the Maſter of the Key to take Care that Ships be ballaſted and unballaſted, according to the Tenour of this preſent Ordinance; under Pain of being anſwerable therefore, and of an Arbitrary Fine.

SECT. XLI.

Of the Captains of the Coaſts.

ARTICLE I.

THE Captains guarding the Coaſts, their Lieutenants and Enſigns, ſhall take an Oath before the Admiral, or his Lieutenants in the Courts of Admiralty, within the Juriſdiction of which they are eſtabliſh'd; and they ſhall there cauſe their * *Letters* to be recorded.

II. Each † *Captainry* ſhall be compos'd of a certain Number of Pariſhes, whoſe Inhabitants ſhall be ſubject to the Sea-watch.

III. The Captains ſhall make the Muſter and Review of the Inhabitants of the Pariſhes ſubject to the Sea-watch, within the Extent of their *Captainries*, or Commands, the firſt Day of *May*, yearly, in Preſence of the Officers of the Admiralty, who ſhall keep a Controul thereof in their Office.

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* *Or Commiſſions.*

† *This Term is made uſe of in the Original, to imply the Bounds or Extent of the Command of every one of thoſe Captains of the Sea-watch.*

IV. There ſhall be in each *Captainry*, a Clerk of the Watch, appointed by the Admiral or his Lieutenants, as well for warning the Inhabitants, Subjects to the Sea-watch, to appear at the Reviews, and to mount the Guard, as to keep a Record of thoſe that neglect it.

V. We moſt expreſly inhibit and forbid all Captains of the Coaſts to take any Cognizance of, or in any manner to concern themſelves with the Wracks and Ruins of Ships, *&c.* and the Effects proceeding from them; under Pain of being ſuſpended from their Offices, and of Reſtitution of fourfold for their firſt Fault, and of exemplary Puniſhment for the ſecond.

VI. The Captains of the Coaſts, and their Lieutenants and Enſigns, ſhall be exempted from the *Band* and *Rear-Band*.

SECT. XLII.

Of Perſons ſubject to the Sea-watch.

ARTICLE I.

THE Inhabitants of the Pariſhes ſubject to the Sea-watch ſhall mount Guard upon the Coaſt when they are commanded, under the Penalty of thirty Solſes for the firſt Fault, and of an arbitrary Fine for the ſecond.

II. We don't, however, mean to include the Inhabitants of Pariſhes oblig'd to mount Guard in Towns, Caſtles and Fortreſſes, ſituate upon the Sea; who ſhall be oblig'd to mount Guard there, and not upon the Coaſt.

III. The Lieutenant of the Admiralty ſhall determine the Fine, upon the Report of the Clerk of the Watch, who ſhall make the Receipt; and the Money ſhall be employ'd, by the Care of our Attorney, toward the Reparation of the Guard-houſes.

IV. The

IV. The Clerk of the Watch ſhall be oblig'd, under Pain of Deprivation, to give into the Admiralty, every ſix Months, a Liſt of the Fines paid, and of thoſe to be paid.

V. The Signal ſhall be given in the Day-time by Smoak, and in the Night by Fire.

VI. The Inhabitants of the Pariſhes, ſubject to the Sea-watch, ſhall be oblig'd to have always in their Houſes, each a Muſquet or Fuſil, a Sword, half a Pound of Powder, and two Pound of Ball; under Pain of five Livres.

VII. We forbid all Serjeants to ſeize for Debt (tho' it be Taxes) the above-mention'd Arms or Munitions, under the Penalty of fifty Livres; to which, in Caſe of Contravention, they ſhall be condemn'd by the Officers of the Admiralty, tho' the Acts or Sentences by Virtue of which theſe Seizures are made, may have been given by other Judges, whom we forbid to take Cognizance thereof.

SECT. XLIII.

Of the Sea-ſide, or Banks and Shores of the Sea.

ARTICLE I.

ALL the Space that is cover'd and diſcover'd, during the new and full Moons, and as far as the Tide extends at the high Flood of *March*, ſhall be reputed the Sea-Shore.

II. We forbid all Perſons to build upon the Sea-Shore, to plant Stakes there, or to do any Thing that may be prejudicial to Navigation; under Pain of having the Works demoliſh'd, the Materials confiſcated, and paying an arbitrary Fine.

SECT. XLIV.

Of ROADS.

ARTICLE I.

OUR Pleaſure is, that all the Roads be free within the Extent of our Dominions, for all Ships belonging to our Subjects and Allies; and we forbid all Perſons, of what Quality or Condition ſoever, to trouble or moleſt them in any manner, under Pain of corporal Puniſhment.

II. We enjoin all Maſters and Captains of Ships, that ſhall be forc'd by Tempeſt to cut their Cables, and leave Anchors in Roads, to make faſt Buoys to 'em, under Pain of loſing their Anchors, (which ſhall belong to thoſe that find them) and alſo of an arbitrary Fine.

III. Maſters of Ships coming to a Road, ſhall drop their Anchors at ſuch a Diſtance from one another, as the Anchors and Cables may not be foul of one another, and occaſion Damage; under Pain of being anſwerable for it, and of an arbitrary Fine.

IV. When there are ſeveral Ships in any Road, that which is outmoſt towards the Sea, ſhall be oblig'd, during the Night, to keep out a Light, for the Directions of other Ships coming from Sea.

V. When a Veſſel in the Road would ſet Sail during the Night, the Maſter ſhall be oblig'd the preceding Day, to remove to a Place convenient for going away, without running aboard of others, or doing any Damage to other Ships in the Roads; under Pain of all Damages, Coſts and Charges, and of an arbitrary Fine.

SECT.

SECT. XLV.

Of Wrecks and Ships run aground.

ARTICLE I.

WE declare, that we have taken, and take into our Protection, all Ships and Perſons belonging to them, that ſhall be caſt aſhore by Tempeſt, or otherwiſe, upon the Coaſts of our Kingdom; and generally, every Thing that has eſcap'd Shipwreck.

II. We enjoyn our Subjects to do their utmoſt Endeavours to ſuccour all Perſons in Danger of Shipwreck. Our Pleaſure is, that ſuch as make any attempt upon their Lives and Goods, be puniſh'd with Death, without any Poſſibility of Pardon; which from this Moment we declare Null, and forbid our Judges to have any regard unto it.

III. The Gentlemen, and other Inhabitants of the Pariſhes bordering upon the Sea, immediately after any Shipwreck happens upon their Lands, ſhall be oblig'd to acquaint the Officers of the Admiralty, within the Juriſdiction whereof the Pariſhes are ſituate, and for that Purpoſe ſhall appoint the Beginning of every Year, one or ſeveral Perſons to take Care thereof; on Pain of being anſwerable for the Robberies that may happen.

IV. They ſhall be, moreover, oblig'd, till the Arrival of the Officers of the Admiralty, to do their utmoſt Endeavours to ſave the Shipwreck'd Goods, and to prevent their being rifled; under Pain of being anſwerable for all Loſſes and Damages; of which they ſhall not be abſolv'd, without producing thoſe that are guilty, or at leaſt diſcovering them, and producing Evidence to juſtify their Diſcovery.

V. We forbid all Perſons employ'd in their Preſervation, and others, to carry into their Houſes or any where elſe, but to the Places

Places appointed for that Effect upon the Shore, *&c.* or to conceal any Part of the Goods and Effects preſerv'd out of Ships run aground, *&c.* as likewiſe to break open Cheſts, or Bales, or to cut the Ropes or Maſts, under Pain of Reſtitution of fourfold, and corporal Puniſhment.

VI. Immediately after receiving Advice thereof, the Officers of the Admiralty ſhall tranſport themſelves to the Place of the Ship and Wreck, ſhall cauſe all Endeavours to be us'd for the Preſervation of the Effects; ſhall take into their Cuſtody the Papers and Enſigns of the wreck'd Ship, receive the Declaration of the Maſters, Pilots, and others of the Ship's Company; draw up a Verbal Proceſs of the Condition of the Ship; take an Inventory of the Goods that are ſav'd, cauſe them to be tranſported to a Magazine, or other Place of Safety: And they ſhall likewiſe make Enquiry after Imbezlements, and ſue thoſe that are guilty; under Pain of Interdiction of their Offices, and to be anſwerable to the Concern'd for all Loſſes and Damages.

VII. The Carriers, Carmen and Mariners, ſhall be oblig'd upon the firſt Requiſition that ſhall be made them, by the Officers of the Admiralty, or the Perſons concern'd in the Shipwreck, to repair with Horſes, Harneſs and Boats, to the Place of the Shipwreck; under the Penalty of five and twenty Livres, to be paid by each of the Refuſers.

VIII. The Workmen ſhall be employ'd by the Tide, or by the Day, and there ſhall be a Liſt of 'em, which ſhall be call'd over every Morning and Evening: Nor ſhall any other Perſons, after the Arrival of the Officers, pretend to intrude themſelves into the Work, but ſuch as ſhall be appointed by them, under Pain of being whipt by the Hand of the Hangman.

IX. The ſaid Officers ſhall likewiſe keep a Liſt of the Carriages of the Effects to the Magazines; and they ſhall give the Carriers, at their Departure from the Place of the Shipwreck, a Note of the Effects delivered to them; which they ſhall put into the Hands of the Guardian.

X. The Guardian ſhall keep a ſeparate Account of what is brought by every Carrier or Carman.

XI. After

XI. After the Goods are tranſported to the Magazines, the Officers ſhall compare the Inventories taken at the Place of the Shipwreck, with the Notes given to the Carriers, and the Account kept by the Guardian; and afterwards the Workmens Labour ſhall be reaſonably tax'd.

XII. The Verbal Proceſs of the Effects ſav'd, ſhall be drawn up after the Comparing of the Accounts and Inventories, in Preſence of the Maſter, if any be; and if not, in Preſence of the principal Man of the Ship's Company; and ſhall be ſign'd by him and the Guardian, who ſhall keep the ſame.

XIII. If no Reclaimer preſents within a Month, the Officers ſhall proceed to the Sale of ſuch of the Goods as are moſt periſhable; and the Money proceeding thereof ſhall be employ'd in paying the Workmen; of which a Verbal Proceſs ſhall be drawn up.

XIV. If the Goods laid up in Warehouſes be found to be ſpoil'd, the Guardian ſhall be oblig'd, after viewing them, with the Permiſſion of the Officers, to ſet expert Perſons to Work, to put them into as good a Condition as poſſible.

XV. In Caſe they be ſo much damnify'd, that they cannot be longer kept without conſiderable Loſs, the Officers of the Admiralty ſhall be oblig'd to cauſe them to be ſold, and to conſign the Money in ſure Hands, for which they muſt themſelves be anſwerable.

XVI. We forbid all the Officers of the Admiralty to procure to themſelves the Adjudication of Goods; under Pain of Reſtitution of fourfold, and the Loſs of their Imployments.

XVII. If at the Time of the Shipwreck, the Owners of the Goods, or their Factors, having Bills of Lading for them, or the Perſons that laded them, appear themſelves? we enjoin the Officers of the Admiralty to retire, and abſolutely to allow them the Liberty of managing their Buſineſs themſelves.

XVIII. However, our Pleaſure is, that the Officers of the Admiralty inform themſelves of the Occaſion of the Shipwreck, of the Nation, of the Maſter and Mariners, of the Quality of the Ship

Ship and Goods, and to whom they belong; and in Caſe it appears, that they have voluntarily run the Ship aground, or that the Goods be Counterband; they ſhall take into their Cuſtody the Ship, the Goods, and the Men.

XIX. We enjoin all Perſons that fiſh up in the Sea, or find any Goods that have been caſt over-board in Diſtreſs, or that proceed from any Shipwreck, to put them in ſome Place of Safety; and four and twenty Hours afterwards, at the lateſt, to make their Declaration to the Officers of the Admiralty, within the Juriſdiction of which the Goods were found; under Pain of being puniſh'd as Recealers.

XX. We likewiſe enjoin, under the ſame Penalties, ſuch as find any Goods or Effects, whether of the Growth of the Sea, or proceeding from Shipwreck, caſt aſhore upon the Sands or Seaſide by the Tide, to make the like Declaration within the ſame Time.

XXI. Effects proceeding from Shipwreck, and fiſh'd up in the Sea, or found upon the Sands, ſhall be forthwith proclaim'd at the * *Prones* of all the Pariſhes of the neareſt Maritime Port and Town, by Order of our Attorney in the Court of Admiralty.

XXII. The Proclamation ſhall expreſs the Quality of the Effects, the Time and Place at which they were found; and the Curates ſhall be oblig'd to make that Publication, under Pain of Confiſcation of their Benefices.

XXIII. Charter-Parties, Bills of Lading, and other Writings in Foreign Languages, found amongſt wreck'd Effects, ſhall be by our Attorneys communicated to the Conſuls and Interpreters of Foreign Nations, whom we enjoin to acquaint the Perſons concern'd, and the Magiſtrates of the Places named in them.

XXIV. Ships run aground, and Goods and Effects proceeding of Shipwrecks found at Sea, or upon the Shore, may be reclaim'd within a Year and Day after the Publication, and ſhall be reſtor'd

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* *This Word* Prone *implies a ſort of a Homily, or Inſtructive Diſcourſe made by the Prieſts to their Pariſhioners on Sundays, in* France *and other Papiſh Countries.*

to

to the Owners or their Factors; they paying the Charges laid out in ſaving them.

XXV. The Owners ſhall be oblig'd to prove their Title, by Bills of Lading, Invoyces, and other Deeds; and the Factors their Power, by ſufficient Procurations, *&c.*

XXVI. If ſuch Effects be not reclaim'd within the Year and Day, they ſhall be equally divided between us (or the Perſons to whom we ſhall aſſign our Right) and the Admiral; all Charges being firſt deducted.

XXVII. However, if Shipwreck'd Effects be found in the high Sea, or fiſh'd up out of the Bottom of it, the third Part ſhall be deliver'd immediately and without any Charge to the Perſons that find them; and the other two Thirds ſhall be depoſited, to be reſtor'd to the Owners, if they reclaim them within the Time above-mention'd; which being expir'd, and no Reclaimer appearing, they ſhall be equally divided between us and the Admiral; the Charges being firſt deducted.

XXVIII. Anchors taken up out of the Bottom of the Sea, not being reclaimed within two Months after a Declaration thereof is made, ſhall belong entirely to thoſe that find them.

XIX. Things of the Growth of the Sea, ſuch as *Amber*, *Coral*, *Lard-fiſh*, and ſuch other Things that have never belong'd to any Body, ſhall likewiſe entirely belong to ſuch as fiſh them up in the Sea, or find them floating; but if they find them upon the Sands, they ſhall have but one Third, and the reſt ſhall be equally divided between us, (or thoſe to whom we ſhall aſſign our Right) and the Admiral.

XXX. We forbid all private Gentlemen, and Officers Military or Civil, to take any Cognizance of wreck'd Goods, to aſſume any Privileges becauſe of their Lands, Offices or Commiſſions; or in any Manner to moleſt the Officers of the Admiralty, under Pain of Deprivation of their Fiefs, or Manors, Offices and Imployments; and we forbid all Troopers and Soldiers, to reſort to Shipwrecks, under Pain of Death.

XXXI. However, the Governor of Places, and Commanders of Maritime Garriſons, ſhall be oblig'd to give the Officers of

the Admiralty, and the Owners of Wreck, a ſufficient Force, if deſired of them; and to ſend for that purpoſe, Officers and Soldiers, of which they ſhall be anſwerable.

XXXII. We enjoin ſuch as find dead Bodies upon the Sands, to remove them out of the Reach of the Tide, and forthwith to acquaint the Officers of the Admiralty, to whom they ſhall give a Declaration of the Things found about the Carcaſſes; and we forbid them to ſtrip the Bodies, or hide them in the Sands, under Pain of corporal Puniſhment.

XXXIII. Immediately after Notice given, the Officers ſhall tranſport themſelves to the Place, to draw up a Verbal Proceſs of the Condition of the Carcaſs, and of the Things found about it.

XXXIV. The Curates ſhall be oblig'd to bury the Bodies ſo found, in the Burying-Places of their Pariſhes; if it appears that they were of the *Roman Catholick* and *Apoſtolick* Religion, on Pain of Deprivation of their Benefices.

XXXV. The Clothes found about dead Bodies, ſhall be deliver'd to the Perſons that remove them from the Sands, and carry them to the Burying-Place.

XXXVI. If there be found about the Carcaſſes, any Money, Rings, or other precious Things, they ſhall all be depoſited at the Office of the Admiralty, to be reſtor'd to thoſe to whom they ſhall belong, if they be reclaim'd within the Year and Day; and if otherwiſe, they ſhall be equally divided between us, the Admiral, and the Perſon that found the Corpſes; the Charges of the Court, and of the Burying, being firſt deducted.

XXXVII. We do not mean by the preſent Ordinance, to prejudice the Duty of Sea-wreck, attributed by the Cuſtom of *Normandy*, to the Lords of the Manors, ſituate upon the Sea-ſide, they fulfilling the Conditions hereby appointed.

XXXVIII. However, we forbid them to cauſe the Things brought aſhore, to be carry'd to their Houſes, before the Arrival of the Officers of the Admiralty, and till they have been view'd and inventory'd by them; under Pain of being anſwerable for the whole Lading, and forfeiting their Right for the Time to come.

XXXIX. The

XXXIX. The Officers of the Admiralty, eſtabliſh'd upon the Coaſts of *Normandy*, after taking an Inventory of the Effects preſerv'd, ſhall deliver them into the Cuſtody of the Lords of the Manors, or other reſponſible Perſon in their Abſence; under Pain of being anſwerable themſelves.

XL. The Wages of the Workmen employ'd in ſaving the Effects, and carrying them to the Lord of the Manor's Houſe, ſhall be tax'd and paid in the Manner preſcrib'd by the eleventh and thirteenth Articles of this Title: The Officers of the Admiralty ſhall not tax any Thing for the Lords of the Manors, for the Duty of *Salvage*, or for their Trouble and Attendance about the Wreck. And we forbid the Lords of the Manors to exact any Thing upon that Pretence, under Pain of Reſtitution of fourfold, of a Fine of fifteen hundred Livres, and of forfeiting of their Rights for ever.

XLI. Nor ſhall the Lords of Manors, under Pretence of their Privileges, hinder the Maſters and Mariners to lighten their Ships when run aground, and to get them afloat again; nor ſhall they force them to make Uſe of their Servants and Vaſſals, under the aforeſaid Penalties of fifteen hundred Livres, and Loſs of their Privileges.

XLII. Nor ſhall the Gentlemen, *&c.* that inhabit the Banks of Rivers, under Pretence of the like Privileges of Sea-watch, pretend any Share in the Effects found afloat upon the Waves, or fiſh'd up in the high Sea, and brought aſhore upon their Manors; nor ſhall they pretend any Duties upon the Fiſh chas'd in thither by the Induſtry of the Fiſhermen.

XLIII. The Lords of Manors ſituate upon the Shore, ſhall be oblig'd within ſix Months after the Publication of this Ordinance, to cauſe Limits to be appointed between their Lands towards the Sea; under Pain of all the Coſts and Damages that may inſue.

XLIV. The Lords of Manors ſituate upon the Sea, and all others that force Pilots to run Ships aground upon the Coaſts adjoining to their Lands, in order to take any Advantage under Pretence of their Privileges, or any other whatſoever, ſhall ſuffer Death.

XLV. Such as during the Night, light falſe Fires upon the Shore in dangerous Places, to decoy thither, and occaſion the Loſs of Ships, ſhall likewiſe be put to Death; and their Bodies hung up upon a Maſt, which ſhall be ſet up upon the Place where the Fires were made.

SECT. XLVI.

Of the Cutting of the Sea-ware.

ARTICLE I.

THE Inhabitants of the Pariſhes ſituate upon the Sea-Coaſt, ſhall meet the firſt Sunday of the Month of *January* of every Year, at the going out of the Pariſh-Maſs, to regulate the Days upon which the cutting of the Sea-ware, upon the Coaſt of their Lands is to begin and end.

II. The Aſſembly ſhall be call'd together by the Syndics, or Church-Wardens of the Pariſh; and they ſhall take Care to have the Reſolution therein taken, publiſh'd and affix'd at the principal Door of their Church, under the Penalty of ten Livres.

III. We forbid the Inhabitants to cut the Sea-ware during the Night, or at any other Time, but that appointed by the Aſſembly aforeſaid; and we likewiſe forbid them to gather any Sea-ware without the Bounds of their Pariſh, to ſell to any Strangers, or to carry away to any other Lands without their Pariſhes, under the Penalty of fifty Livres, and Confiſcation of the Horſes and their Harneſſes, *&c.*

IV. We likewiſe forbid all Lords of Manors ſituate upon the Sea-ſide, to appropriate to themſelves any Part of the Rocks upon which that Herb grows, to hinder their Vaſſals to carry it away at the Time agreed to by the afore-mention'd Aſſembly, or to exact any Thing for allowing them that Liberty, or give the like Permiſſion to any other; under Pain of being puniſh'd as Extortioners.

V. How-

V. However, we allow all Perſons indifferently, in all Places and Times, to take the Sea-ware caſt aſhore by the Tide upon the Sands, and carry it whither they pleaſe.

NOTE, *This Sea-ware (by which I mean a ſort of an Herb that grows upon the Rocks in the Sea) being very uſeful in many Places of* France, *and eſpecially in the large Province of* Normandy, *for fat'ning the Land, the* French *King has thought fit by this Ordinance to regulate the Manner in which it muſt be cut, and to whom it ſhall belong,* &c. *which Regulation was certainly occaſioned by Diſorder and Complaints that had been formerly made againſt ſuch Gentlemen,* &c. *as endeavour'd to appropriate all the Sea-ware found upon their own Coaſts, to their own private Uſe.*

SECT. XLVII.

Of the Liberty of Fiſhing.

ARTICLE I.

WE declare the Fiſhing in the Sea to be free and common to all our Subjects, whom we allow to fiſh, as well in the High-Sea, as upon the Shore, with the Nets and Engines ſpecify'd in this Ordinance.

II. Our Subjects going to fiſh for Cod, Herring and Mackarel, upon the Coaſts of *Iſland*, *England*, *Scotland* and *America*, upon the Bank of *Newfoundland*, and generally in any other Sea whatſoever, ſhall be oblig'd to take a Licenſe from the Admiral for every Voyage.

III. And as for our Subjects that fiſh for freſh Fiſh, in Boats carrying Maſt, Sails, and Ruther, they ſhall only be oblig'd to renew their Licenſes once a Year, without making any Declaration at their Return, except they find ſome Wreck, ſee any Fleet, or meet with any conſiderable Adventure at Sea; in which Caſe they ſhall make their Declaration to the Officers of the Admiralty, who ſhall receive it without any Fees.

SECT.

SECT. XLVIII.

Of the different Sorts of * *Nets.*

ARTICLE I.

THE Fiſhermen may make uſe of the Nets call'd † *Folles*, ** *Dreiges*, and of thoſe call'd *Tramels* or *Drag-Nets*, and others mention'd in the preſent Ordinance, in the Manner and Time hereafter expreſs'd.

II. The Net-Maſhes of the *Folle-Nets* ſhall be five Inches ſquare, and they ſhall not be left in the Sea above two Days; under Pain of Confiſcation of the Nets, and a Fine of five and twenty Livres.

III. Thoſe that fiſh with the ſaid Nets, ſhall be oblig'd to be always over them while they are in the Sea, and to view them every Tide, or oftner, if need be; except they be hindred by Stormy Weather.

IV. The *Dreige-Nets* ſhall have their Net-Maſhes of one Inch and nine Lines ſquare, and theſe made faſt to either Side of the Net, ſhall be of nine Inches ſquare, and ſhall not have above a Pound and half of Lead by the Fathom, under the Penalties above expreſs'd.

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* *As it is not poſſible to give Names in* Engliſh *to all the different Sorts of Nets and other Things ſpoken of in this Ordinance, and ſome of them unknown in* England, *I ſhall always take Care to explain the Meaning of the Terms that I am forc'd to inſert in* French, *becauſe I cannot find Synonimous ones to ſupply their Place in our Language.*

† Folles *is a ſort of a Net with very large Net-Maſhes, which is us'd in the Ocean for catching the Fiſh call'd* Thornback.

** Dreige *is another ſort of a Net much us'd in fiſhing for* Turbots, Soles, Sandings, *and other delicate Fiſhes.*

V. How-

V. However, we allow all Perſons to fiſh for *Quavivers*, or *Sea-Dragons*, with Net-Maſhes of thirteen Lines ſquare, from the 15th of *February*, to the 15th of *April* only.

VI. Such as would fiſh, during the Night, ſhall be oblig'd to light at three different times a Fire, when they put their Nets into the Sea; under the Penalty of fifty Livres, and of Reparation of all Damages that may happen.

VII. If the Nets of a * *Dreiger-Boat* be foul of any Anchor, or of Rocks, *&c.* ſo that they cannot preſently be got clear, the Fiſhermen ſhall be oblig'd, under the like Penalties, to keep out a Fire during the Night, as long as the Boat is ſo detain'd.

VIII. The Net-Maſhes of the Nets call'd † *Picots*, ſhall be of the ſame Bigneſs with theſe of the *Dreige-Nets*, and ſhall have four Ounces more of Lead *per* Fathom: We forbid to make uſe of Poles tipp'd with Iron, or ſharp-pointed, to beat up the Fiſh; under the Penalty of ten Livres.

IX. We forbid all Fiſhermen going out to the Sea, to poſt themſelves, or caſt their Nets in any Place where they may be detrimental to thoſe that are arriv'd at the Place before them, or have already begun to fiſh; under Pain of paying all Damages, Coſts, and Charges, and a Fine of fifty Livres.

X. We likewiſe forbid, under the like Penalties, all Fiſhermen, fiſhing in a Fleet, to leave their Rank or Station to place themſelves elſewhere, after that the other Fiſhers of the Fleet have thrown their Nets into the Sea.

XI. We allow them to fiſh for *Pilchers* with Nets, having their Net-Maſhes of four Lines ſquare or more.

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* *By* Dreiger-Boat, *I mean a Fiſhing-Boat that uſes the Nets of that Name.*

† *Theſe Nets are much the ſame with the* Dreige-Nets, *but are not ſo large, and are in uſe upon the Coaſts of* Normandy.

XII. We

XII. We forbid the Fiſhermen to make uſe of any * *Reiſure* for catching of *Pilchers*, and we forbid all Shop-keepers to ſell any, till it has been view'd and approv'd; under the Penalty of three hundred Livres.

XIII. We forbid them to fiſh with the Nets call'd † *Gangui* or *Bregin*, or with that call'd *Marqueſec*; or to catch the Fiſh call'd *Nonnat*, during the Months of *March*, *April* and *May*; under Pain of Confiſcation of the Nets and Boats, and a Fine of fifty Livres.

XIV. We likewiſe forbid them, under the ſame Penalties, to fiſh during theſe Months, with the Nets call'd ** *Bouliers*, within two hundred Fathoms of the Entry of Lakes and Rivers.

XV. We moreover forbid the Fiſhermen that make uſe of Engines call'd †† *Fichures*, to take Fiſh caught in the Nets call'd *Baſtudes*, or other Nets laid in ſalt Lakes; under Pain of bodily Puniſhment.

XVI. There ſhall always be at every Admiralty-Office a Model of the Net-Maſhes of every ſort of Nets, of which the Fiſhermen reſiding within the Extent of that Juriſdiction, ſhall make uſe in Fiſhing, either in the High Sea, or upon the Coaſt; and we injoin our Attorneys to be diligent in the Execution of the Premiſes, on Pain of being anſwerable themſelves for the Malverſations.

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* *This* Reiſure *is a ſort of a Bait very ordinary it ſeems and ſucceſsful for taking of the little Fiſhes call'd* Sardels *or* Pilchers; *it is made of the Eggs of* Codfiſh; *and I here inſert it as I find it in the Original, not knowing any Term in* Engliſh *for it.*

† Gangui *and* Bregin *are too ſynonimous Terms to expreſs a ſort of Net for catching of very ſmall Fiſhes, and* Marqueſec *is another Net much of the ſame Nature, being much in uſe in the* Mediterranean *for catching the little Fiſh call'd* Nonnat; quaſi nondum Natus; *being the ſmalleſt Fiſh that is.*

** Bouliers *is a large ſort of a Net, much in uſe in the* Mediterranean; *where the Fiſhermen ſpread ſuch Nets in the Mouth of the Rivers.*

†† Fichure *is a ſort of an Inſtrument, with which they dart the Fiſh in ſalt Lakes; and* Baſtude *is a Net, that is likewiſe us'd in ſuch Places.*

SECT.

SECT. XLIX.

Of PARKS and FISHERIES.

ARTICLE I.

WE allow the Fiſhermen to ſpread upon the Sea-Sands, and in the Bays and Entries to navigable Rivers, the Nets call'd great and ſmall *Parks*, *Ravoirs*, *Courtines* and *Venets*, of the Quality, and in the manner preſcrib'd by the following Articles.

II. The Net-Maſhes of the ſmall *Parks*, *Courtines* and *Venets*, ſhall be two Inches ſquare, and ſhall be made faſt to Stakes planted for that Purpoſe upon the Sands; upon which the Nets ſhall be ſpread, without being hid.

III. The Net-Maſhers of the *Great Parks* ſhall be one Inch, or at leaſt nine Lines ſquare; and ſhall be ſpread in ſuch Manner, that the under Part of the Nets ſhall be at leaſt three Inches above the Sand.

IV. The *Parks* in which there is any Wood or Stone, ſhall be demoliſh'd, excepting ſuch as were built before the Year 1544; in the Enjoyment of which the Poſſeſſors ſhall be maintain'd, according to the 84*th* and 85*th* Articles of the Ordinance of the Month of *March* 1514; provided they be built in the Manner hereafter preſcrib'd.

V. The *Parks* of Stone ſhall be built in Form of a Semi-Circle, and four Foot High at moſt, without Lime, Mortar, or Maſon's Work; and they ſhall have in the Side, towards the Sea, and

* *Theſe are all Terms implying a ſort of Nets and Snares ſpread and built upon the Sea Sands, for catching of Fiſh.*

Opening of two Foot in Breadth, which ſhall only be clos'd with a Gate of Wood, having Holes, in Form of Net-Maſhes, of one Inch ſquare at leaſt, from the Feaſt of * St. *Remy* till *Eaſter*; and of two Inches ſquare from *Eaſter* to St. *Remy*.

VI. The *Parks* call'd *Bouchots*, ſhall be built in Form of a Hurdle of Rods enterlac'd together, and ſhall have in the Side towards the Sea, an Opening of the like Bigneſs of two Foot, which ſhall not be clos'd with Nets, Wooden Grapes, Baskets, nor any other Thing, from the firſt of *May*, till the laſt of *Auguſt*.

VII. And as for the Parks of Wood and Nets,, they ſhall be made of ſimple Hurdles, of one Foot and a half in Height, to which ſhall be faſt'ned Nets with Net-Maſhes of one Inch ſquare; and the Hurdles ſhall likewiſe have on the Side towards the Sea, an Opening two Foot in Breadth, which ſhall be clos'd with a Net, which ſhall have Net-Maſhes of two Inches ſquare, from *Eaſter* to the Feaſt of St. *Remy*; and of one Inch at leaſt, from St. *Remy* to *Eaſter*.

VIII. We forbid all Perſons of whatſoever Quality or Condition, to build hereafter upon the Sea-Sands any *Parks*, in which there enters any Wood or Stone; under the Penalty of three hundred Livres, and the Demoliſhing of the *Park* at their Expences.

IX. We likewiſe forbid the Lords of Manors bordering upon the Sea, and all others, to levy any Duties in Money, or otherwiſe, upon the *Parks* and Fiſheries, and upon the Fiſhings either in the high Sea, or upon the Shore; or to attribute to themſelves any Portion in the Sea, to fiſh therein, to the Excluſion of others, except it be by Vertue of any Title or Grant obtain'd in our † *Chambres de Comptes*, before the Year 1544; under Pain of Reſtitution of fourfold, and a Fine of fifteen hundred Livres.

X. We likewiſe forbid all Governours, Officers and Soldiers, of Iſles and Fortreſſes, and Maritime Towns and Caſtles, in any Manner to obſtruct the Fiſheries in the Neighbourhood of their Garriſons, or to exact of the Fiſhermen any Money or Fiſh, under any Pretence whatſoever; under Pain, for the Officers, of the

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* *St.* Remy's *Day is the* 2d *of* October *of the* French *Stile.*

† *That is a ſort of Judicature eſtabliſh'd in* France.

Loſs

Loſs of their Commiſſions, and of corporal Puniſhment for the Soldiers.

XI. The *Parks* and *Bouchots* built at the Entry into navigable Rivers, or upon the Sea-Shore within two hundred Fathoms, or leſs of the ordinary Paſſage of Ships, ſhall be demoliſhed at the Charge of the Owners.

XII. We forbid all Perſons fiſhing with the Nets call'd * *Guideau*, to ſpread them in the ordinary Paſſage of Ships, nor within two hundred Fathoms of it; under Pain of Seizure and Confiſcation of the Nets, of a Fine of fifty Livres, and of Reparation of all Damages occaſion'd thereby.

XIII. We command that the Stakes ſet up in the ordinary Place for the Paſſage of Ships, or within two hundred Fathoms of it, for ſpreading of Nets, be pull'd down within fifteen Days after the Publication of this Ordinance, at the Expence of the Owners, and by the Care of our Attorneys in the reſpective Courts of Admiralty, under Pain of the Loſs of the Imployments of the latter.

XIV. Our Pleaſure is, that ſuch as replant Stakes in the ſame Places from whence they have been pull'd down, by Vertue of the preſent Ordinance, be ſeverely proſecuted, and that the Delinquents be condemn'd to be whipp'd by the Hand of the Hangman.

XV. The Fiſhermen whoſe Stakes and Nets ſhall be remov'd, and Fiſheries demoliſh'd, as detrimental to Navigation, ſhall be diſcharg'd of all Rents and Arrears due by them to us, or to private Gentlemen, upon that Account; whom we forbid, as well as our Receivers, to exact the Payment thereof, under Pain of being puniſh'd as Extortioners.

XVI. We likewiſe forbid all Perſons to make uſe of the Nets call'd *Bouteux*, *Ruches*, or of Baskets, or other Engines to catch

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* *This is a Net made faſt to two Stakes, ſet up at the Entry of large Rivers.*

Shrimps, &c. from the firſt of *March* to the laſt of *May*; and to fiſh in any Seaſon of the Year with the Nets called * *Colerets* and *Seynes*, or other ſuch Nets which touch the Sands, under Pain of an Arbitary Fine, and the Seizure and Confiſcation of the Nets the firſt Time, and of corporal Puniſhment for the ſecond.

XVII. We likewiſe forbid, all Perſons to make any *Parks*, *Raviors* and *Venets*, with Net-Maſhes than is above ſpecify'd; and to make *Seynes* and *Colerets*, or to ſell or conceal any, under the Penalty of five and twenty Livres.

XVIII. We likewiſe forbid, under the like Penalties, to fiſh with the *Dreige-Nets* for Muſcles, or to ſcrape the Bottom of the Place where they are with Knives, and ſuch other Inſtruments of Iron, to root up the Fry of Mucles, or to take away thoſe that are not yet in a Condition to be fiſh'd.

XIX. We declare the Fathers and Mothers to be anſwerable for the Penalties incurr'd by their Children; and the Maſters, for thoſe to which their Servants ſhall be condemn'd, for contravening the preſent Article.

XX. We allow the Officers of the Admiralty to apply one Third of the Fines to the Payment of the Charges of the Court.

XXI. We enjoyn them to cauſe all the *Seynes*, *Colerets*, and other Nets that are not of the Quality expreſs'd in the preſent Ordinance, to be burnt; to which they ſhall be oblig'd, under Pain of Suſpenſion of their Imployments; and to view the Coaſts once a Month, and to ſearch from Time to Time the Houſes of the Fiſhermen, and other Perſons inhabiting upon the Coaſt of the Sea, and the Banks of Rivers.

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* Colerets *and* Seynes *are great and long Nets, which are dragg'd upon the Sands.*

SECT.

SECT. L.

Of * Madragues *and* † Bordigues.

ARTICLE I.

WE forbid all Perſons to ſpread in the Sea any *Madragues*, or Nets for catching of *Tunnies*, or to build any *Bordigues* there, without our ſpecial Licenſe, under Pain of Confiſcation, and a Fine of three thouſand Livres.

II. Such as obtain of us a Patent for erecting any *Madrague* or *Bordigue*, ſhall be oblig'd to cauſe it to be recorded at the Admiralty-Office of the Juriſdiction where it is to be eſtabliſh'd.

III. We enjoyn the Owners of *Madragues* to put up *Buoys* upon the Extremities towards the Sea, under Pain of being anſwerable for all Damages, and forfeiting their Privileges.

IV. We likewiſe forbid, under the ſame Penalties, to erect any *Madrague* or *Bordigue* in the Ports, or other Places where they may be detrimental to Navigation; or to leave there, when they take up their *Madragues*, the Stones or *Baudes* that were faſt'ned to it.

V. The Captains of the *Madragues* ſhall not hinder the other Fiſhermen to ſpread *Tunny-Nets*, and to fiſh in the Neighbourhood of the *Madragues*; provided they don't come nearer than

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* Madrague *is a ſort of an Incloſure made upon the Sea-Sands, extending ſometimes near a Mile ſquare, being compos'd of Cables, and Nets*, &c. *for catching of* Tunnies, *and other Fiſh.*

† Bordigue *is much the ſame with* Madrague, *with this Difference only*, viz. *that the latter is not ſo large as the former, and is not compos'd of ſo ſtrong Materials; it not being ſituate ſo far in the Sea, but moſtly at the Paſſage to Lakes and Rivers.*

two

two Miles towards the Eaſt, or the ſide from whence the *Tunnies* come.

VI. The Owners and Farmers of *Bordigues* ſhall be oblig'd Yearly to clear the Ditches and Canals, each within the Extent of his *Bordigue*, ſo that there be always at leaſt four Foot of Water; under the Penalty of three hundred Livres, and of having Workmen plac'd there at their Expences.

VII. We likewiſe forbid them, under the ſame Penalty, to cloſe their *Bordigues*, from the firſt of *March* to the laſt of *June*; and we enjoyn the Officers of the Admiralty to cauſe them to be open'd during that Time, on Pain of being ſuſpended for their Imployments.

VIII. The Owners nor Farmers ſhall not pretend any Damages, *&c.* againſt the Mariners whoſe Boats may come foul of their *Bordigues*, except they can make it appear that it was done deſignedly or maliciouſly.

SECT. LI.

Of the Fiſhing of HERRING.

ARTICLE I.

THE Net-Maſhes of the Nets call'd *Aplets*, for fiſhing of Herring, ſhall be one Inch ſquare; and the Fiſhermen ſhall not make uſe of any otherwiſe, nor uſe the ſame for catching of other Fiſh; under the Penalty of fifty Livres, and Confiſcation of the Nets.

II. When the Fiſhermen caſt their Nets into the Sea for catching of Herring, they ſhall be oblig'd to do it at leaſt one hundred Fathoms from any other Boat, and to have two Lights out, one at the Head, and another at the Stern of the Veſſels; under the aboveſaid Penalty of fifty Livres, and Reparation of all Damages, Loſſes and Charges, *&c.* that may happen by their running aboard of one another.

III. Every

III. Every Boat ſhall be oblig'd, under the like Penalty, when they have caſt their Nets into the Sea, to keep a Light on the Stern, and to drive with the ſame Board to the Wind as the others.

IV. We enjoyn, under the like Penalties, the Maſters of Barks who during the Night would ſtop and caſt Anchor, to retire to ſuch a convenient Diſtance from the Place where the others are fiſhing, that no Damage may happen to any of the Barks or Boats.

V. If any Boat be oblig'd by any Accident to give over fiſhing and caſt Anchor, they ſhall be oblig'd to ſhow a Light three different Times, the firſt when they begin to draw their Nets, the ſecond when they are half draw'd up, and the third when they are got quite up, and then they ſhall throw their Light into the Sea.

VI. If the Nets be entangl'd in the Water, they ſhall not throw away their third Light, but ſhall be oblig'd to ſhow a fourth, and to keep up two Lights burning till the Nets be diſentangl'd.

VII. We forbid, under Pain of corporal Puniſhment, all Fiſhermen to put out a Light without any neceſſity, or otherwiſe than at the Times, and in the Manner above expreſs'd.

VIII. If at any Time the greater Part of a Fleet give over fiſhing, the reſt ſhall be oblig'd to do the ſame, under Pain of Reparation of all the Damages and an Arbitrary Fine.

SECT.

SECT. LII.

Of the Fiſhing of COD.

ARTICLE I.

WHEN our Subjects go to fiſh for *Cod* upon the Coaſts of *Newfoundland*, the firſt who ſhall arrive at or ſend his Boat to the Harbour call'd *Le Havre du petit Maitre*, ſhall have the Chice, and take the Extent that ſhall be neceſſary for him; and ſhall put at the Place call'd *The Scaffold of the Grapple*, a Bill ſign'd by him, containing the Day of his Arrival, and the Harbour he has choſen.

II. All the Maſters that arrive afterwards, ſhall be oblig'd to go or ſend to *The Scaffold of the Grapple*, and write down under his Bill the Day of their Arrival, the Number of their Seamen, and the Harbours and Places they have choſen, in proportion to the Burthen of their Ships, and the Number of their Mariners.

III. The Captain that arrives firſt, ſhall cauſe the Bill or *Placard* to be guarded by one of his Men, who ſhall remain upon the Place till all the Maſters have made their Declarations, which afterwards ſhall be put into his Hands.

IV. We forbid all Maſters and Mariners to ſettle themſelves in any Harbour, or accommodate themſelves in any Station, till they have made their Declarations in the aboveſaid Form; nor ſhall they diſturb any other Maſter in the Choice that he may have made, under the Penalty of five hundred Livres.

V. The firſt of our Subjects alſo that ſhall arrive with his Veſſel in the Bay of *Canada*, to fiſh there for *Cod*, ſhall be Maſter of the Harbour, and ſhall occupy the Place he thinks convenient, and ſhall alſo mark out ſucceſſively to thoſe that ſhall come after him, the Places that ſhall be neceſſary for them, with Regard to the Burthen of their Ships, and Number of their Men.

VI. We

VI. We forbid the Governour or Captain of the Coaſt between the Cape *Des Roziers*, and that of *Good Hope*, and all other Perſons, under Pain of Diſobedience, to diſturb the Maſter firſt arriving in the *Bay*, in the Choice and Diſtribution of the Places upon the Shore.

VII. We likewiſe forbid, under the Penalty of five hundred Livres, the Maſters and Mariners of the Ships that ſhall arrive, either upon the Coaſts of *Newfoundland*, or in the *Bay* of *Canada*, to throw the Ballaſt into the Harbours, to appropriate to their own Uſe the Salt and Oil which ſhall be left there, and to break, tranſport, or burn the Scaffolds, which ſhall belong to the Maſters who have made choice of the Harbours and Stations where they have been left.

VIII. We likewiſe forbid them to take Poſſeſſion, without a ſpecial Power from the Owners of the Boats laid up upon the Sands, or left in the little River in the *Bay* of *Cod*; under Pain of paying the Price of the Boats, and a Fine of fifty Livres.

IX. However, if the Owners of the Boats don't make uſe of them, nor have not diſpos'd of them, ſuch as have need of them may, with the Permiſſion of the Captain firſt arriv'd, make uſe of them for their Fiſhing, upon Condition to pay the Hire to the Owners at their Return.

X. Any Captain or Maſter making uſe of ſuch Boats, ſhall be oblig'd to deliver into the Hands of the Captain that gave him the Permiſſion, or in his Abſence to the Captain eſtabliſh'd over the neareſt Harbours, an Account of the Boats he has taken to make uſe of, with a Submiſſion to pay the Hire; and alſo to reſtore to the Owners, if they come to the Coaſt, or to any other having Power from them.

XI. He ſhall likewiſe be oblig'd, after the Fiſhing is over, to lay up the Boats again in Saftey, of which he ſhall take a *Certificate* from the ſame Captain, if he be upon the Place; or an Atteſtation of ſome other, if he be gone.

XII. We enjoyn the Captain of the firſt Ship arriving upon the Coaſt of *Newfoundland*, or in the *Bay* of *Canada*, to draw up a *Verbal Proceſs* of all the Malverſations againſt this preſent Ordinance, which he ſhall ſign himſelf, and cauſe to be ſign'd by the

Principal Officers of his own Ship, and at his Return deliver into the Hands of the Judges of the Admiralty, who ſhall take Cognizance of it.

XIII. We forbid all Maſters of Ships, fiſhing for *Cod* upon the Banks of *Newfoundland*, or in the Bay of *Canada*, to ſet ſail during the Night; under Pain of paying the Damage they may occaſion by running aboard of any Ship, and a Fine of fifty Livres; and likewiſe of corporal Puniſhment, if any Perſon be loſt by the Accident.

SECT. LIII.

Of ROYAL FISH.

ARTICLE I.

WE declare *Dolphin*, *Sturgeon*, *Salmon* and *Truits* to be *Royal Fiſh*, and in that Quality to belong to us, when they are found upon the Sea-Shore, we paying the Hire of the Perſons that find them, and put them in a Place of Security.

II. *Whales*, *Porpuſſes*, *Sea-Hogs*, *Sea-Calves*, *Tunnies*, and generally all other fat or *Lard-Fiſh*, found aſhore upon the Sea-Sands, ſhall be divided as Wrecks, and other Effects caſt aſhore.

III. When the *Royal*, or *Fat*, or *Lard-Fiſh*, are taken in the high Sea, they ſhall belong to thoſe that find them; nor ſhall our Receivers, nor particular Lords of Manors, nor their Farmers, exact any Pretence whatſoever.

As for the French *Terms which I have here inſerted, I hope the World won't think it odd, ſince I have ſufficiently explain'd them. And beſides, I queſtion whether any Words could be juſtly given for them without a* Circumlocution *in our Language. And if there could, I being a Stranger to the practical Part of the* Fiſhing Trade, *I have had no Opportunity of learning that* Dialect.

SECT.

SECT. LIV.

Of FISHERMEN.

ARTICLE I.

THREE Months after the Publication of the preſent Ordinance, the Lieutenants of the Admiralty, at the Requeſt of our Attorneys in that Court, ſhall take a Liſt of all the Fiſhermen of the Age of eighteen Years and above, living within the Extent of their reſpective Juriſdictions; in which ſhall be ſpecify'd the Name and Age of each Fiſherman, and the Quality of the Fiſhing in which he meddles.

II. The two moſt ancient Maſter Fiſhermen of each Pariſh ſhall be oblig'd the firſt Day of every *Lent*, to ſend to the Admiralty-Office of the Place where they live, a Liſt of all the Perſons in their Pariſh, of the Age of eighteen and upwards, that go to fiſh in the Sea; under the Penalty of ten Livres ſolidarily.

III. The Maſter of every Fiſhing-Boat ſhall likewiſe be oblig'd under the Penalty of ten Livres, to give into the Admiralty-Office, in taking out his Licenſe, a Liſt of his Crew, containing their Names, Age, and Dwelling-Places.

IV. The Fiſhermen of every Port or Pariſh, where there are eight or more Maſter Fiſhermen, ſhall chuſe once a Year one of their Number to be their * *Jure* or Chief of the Company, who ſhall take an Oath before the Officers of the Admiralty, and ſhall daily view the Nets, and make his Declaration to the aforeſaid Officers, of all the Malverſations againſt this Ordinance; under Pain of an Arbitrary Fine.

* *This* Jure *is a ſort of an Officer uſual amongſt the meaner Tradeſmen and Artizans of* France, *but yet inferior to thoſe after-mention'd, which I ſhall call* Wardens *or* Overſeers, *tho' much of the ſame Nature.*

V. If there be leſs than eight Maſters in any one Port or Pariſh, they ſhall be oblig'd to aſſemble thoſe of the neighbouring Pariſhes, or to join themſelves with them, and proceed to the Election of a *Jure*; which ſhall be done without any Expence, Preſent, or Treat; under the Penalty of twenty Livres againſt each Offender.

VI. In Places where there are *Viewers*, or *Wardens*, or *Overſeers*, the Fiſhermen ſhall meet yearly to chuſe them in the Preſence of the Officers of the Admiralty; who ſhall adminiſter the Oath to thoſe that are elected, and ſhall receive without any Fees, the Accounts of the Money of their Commonalty.

OUR Pleaſure is, That the preſent Ordinance be kept and obſerv'd within our Kingdom, and the Lands and Countries under our Obedience: We abrogate all Ordinances, Cuſtoms, Laws, Statutes, Regulations, Stiles and Uſages, contrary to the Diſpoſitions therein contain'd. WE HEREBY command our truſty and well-beloved, the Judges of our Courts of Parliament, Officers of the Superiour and Inferiour Courts of Admiralty, and others to whom it ſhall belong, to keep, obſerve, and maintain, and cauſe to be read, publiſh'd, recorded, obſerv'd, and maintain'd, theſe Preſents; FOR, ſuch is our Pleaſure: And that the Thing may be for ever firm and ſtable, we have caus'd our Seal to be affix'd thereunto. Given at Fontainbleau *in the Month of* Auguſt, *in the Year of Grace* 1681, *and of our Reign the* Thirty Ninth.

Sign'd,

LEWIS.

By his Majeſty's Command,

COLBERT.

CHAP.

CHAP. VII.

Containing a Regulation which the French *King commands to be obſerv'd by his Subjects, who ſhall buy, or cauſe to be built, any Ships, Barks, or other Veſſels for the Sea, whither in* France *or Foreign Countries; and by ſuch as are appointed for the Deliverance of the Licenſes and Paſsports of* Monſieur *the Count* de Vermandois, *Admiral of* France, *concerning the Navigation of the aforeſaid Ships.*

ARTICLE I.

IN the firſt Place, his Majeſty forbids all his Subjects to lend their Names to Strangers, or to buy any Ships of them by Sham-Contracts; and he likewiſe forbids all *French* Captains, Maſters, and Patrons of Ships, to take Licenſes and Paſsports from our aforeſaid Lord, the Admiral, to cauſe ſuch Ships to ſail under the Standard of *France*; under Pain of Confiſcation of the ſaid Ships, and a Fine of one thouſand Livres for the firſt Time, and of corporal Puniſhment for the ſecond; as well againſt the Perſons that lend their Names, as againſt the Maſters and Patrons that take out the Paſsports.

II. His Majeſty's Pleaſure is, that Commiſſions, Licenſes, and Paſsports, be given only to Ships and Veſſels that are actually in the Ports of *France*; and that the ſaid Paſsports be limited, only for a convenient Time for making the Voyage for which the Paſsport ſhall be deſired, and at moſt for ſix months, and that they be null after that Time, and an expreſs Clauſe be inſerted for it in the ſaid Paſsport; except they be for long Voyages, in which Caſe the Paſsports ſhall be granted for that whole Voyage only; and however it be, ſhall only be valid for one Year.

III. However, his Majeſty allows Paſsports to be granted for ſuch Ships as his Subjects ſhall buy, or cauſe to be built in Foreign

reign Countries, which have not yet been in any Port of the Kingdom; which Paſsports ſhall be limited for three Months only; and none other ſhall be given, if they be not within that Time brought into ſome Port of the Kingdom.

IV. It is his Majeſty's further Pleaſure, that Merchants and other private Perſons, that cauſe to be built, or buy Veſſels built in any Port of the Kingdom, make their Declaration before the Officers of the Court of Admiralty, within the Juriſdiction of which they live, whether the Veſſels belong entirely to them; and if they be but Part-Owners, that they declare the Names of their Partners, who muſt not be Strangers, but *Frenchmen*, reſiding actually in the Kingdom; and that they likewiſe cauſe to be recorded at the Office, the Contracts of their Purchaſe.

V. In Caſe any Native will cauſe a Veſſel to be built in any Foreign Country, his Majeſty's Pleaſure is, that he make his Declararion in the aforeſaid Court, as ſoon as he gives Orders for it; and that he reiterate the Declaration as ſoon as the Ship is built, which ſhall contain the Place where the Veſſel is to be built, the Burthern of it, and the Voyage for which it is intended, together with the other Owners, who muſt be *French*, reſiding within the Kingdom; as is above expreſs'd.

VI. In Caſe any Native will buy a Ship in a Foreign Country, his Majeſty's Pleaſure is, that he make his Declaration to the Officers of the Admiralty, at the Place of his Reſidence; and that after the Ship is bought, he declare his Partners, and cauſe the Contract to be recorded in the aforeſaid Court.

VII. In Caſe there be a *French* Conſul ſettled in the Countries where the *French* buy, or cauſe Ships to be built, his Majeſty's Pleaſure is, that they produce to the Officers of the Admiralty, an Atteſtation from the Conſul, expreſſing the Condition and Quality of the Ship, and what Knowledge he has of the Sellers and Undertakers, and of the Notaries, and other Publick Perſons that have drawn up the Writings, which for that Effect ſhall by him be made Authentick.

VIII. His Majeſty's Pleaſure is, that the Owners of Ships built within the Kingdom, or built or bought in Foreign Countries, in the Manner above expreſs'd, ſhall be oblig'd to give into the Admiralty-Office, a Liſt of their Ships Companies, containing

ing the Names, Age and Dwelling-Place, and that of the Nativity of the Officers, Mariners and Seamen, whether in *France* or elsewhere; and that no Paſsport be given them, except the Captain, Maſter and Patron, together with the other Officers, and two Thirds of the Crew, be *Frenchmen*, actually reſiding within the Kingdom,

IX. His Majeſty enjoyn his Subjects that buy, or cauſe Ships to be built in Foreign Countries, and ſell them again to Foreigners, to make their Declaration, and record the Contract at the Admiralty-Office of the Place of their Reſidence.

X. His Majeſty's Pleaſure is, that the Merchants, Captains, Maſters, Patrons, and Owners of Ships, together with the Officers appointed for the Deliverance of the Licenſes and Paſsports of our ſaid Lord the Admiral, that do not obſerve the Conditions preſcrib'd by this preſent Regulation, be puniſh'd by the Confiſcation of Ships and Lading, and a Fine of one thouſand Livres, and corporal Puniſhment for the ſecond Time.

XI. And his ſaid Majeſty commands and ordains Monſieur the *Count de Vermandois*, Admiral of *France*, to take Care that this Regulation be exactly obſerv'd; and that the Officers eſtabliſh'd at every Court of Admiralty within the Kingdom, do cauſe it to be publiſh'd, affix'd, and recorded in every one of the ſaid Courts, that none may pretend Ignorance. GIVEN at *Strasburgh*, the 24*th* Day of *October*, 1681.

Sign'd,

Compar'd LEWIS.

COLBERT.

CHAP.

CHAP. VIII.

Containing a ſhort Diſcourſe of the Regulation eſtabliſhed by the French *King in the Province of* Brittany, *and ſhewing in what the Maritime Government of that Country is different from that of the reſt of the Provinces of* France: *Concluding with ſome Brief Reflections upon the good Method obſerved by the* French *in the Management of their Marine Affairs.*

NO Perſon who is tolerably acquainted with the Hiſtory of *France*, can be ſo ignorant of the ancient Conſtitution of the different Provinces of that Monarchy, as not to know that *Brittany* was formerly ſubject to a Sovereign Prince and Duke of its own, till failing of Heirs Male, the eldeſt Daughter and Heireſs of the Duke of *Brittany* was marry'd to a King of *France*, who by a Treaty then concluded, oblig'd himſelf to maintain the Inhabitants of that Province in the Enjoyment of their ancient Rights and Privileges: And thence proceeds the Diverſity in the Maritime Government, between that and the other Dominions of *France*, tho' in the main there is nothing left, but the Shadow of Liberty, in that as in all the Reſt of the *French* Territories. For though *Lewis* XIV. ſtill allows the States of that as of ſome other Provinces in his Kingdom, to meet much after the ſame Manner as our Parliament in *England*, the Members of thoſe Aſſemblies dare not pretend to take the Liberty to ſpeak and act with the ſame Freedom, but on the contrary, muſt in every Thing comply with the Demands of their Maſter, who by his Attorney-General does ordinarily let them know the Sum he expects at their Hands; which is forthwith granted to his Majeſty without the leaſt Heſitation, under the Nick-Name of a *Voluntary Gift*.

But in fine, to come to the Matter, the Difference between the way of proceeding in Marine Affairs (for there is indeed no Difference in the Marine Laws) in *Brittany* and the other Provinces of *France*, does principally conſiſt in this; That whereas in other Pro-

Provinces the Admirals, Lieutenants, and Deputies, take Cognizance of all Maritime Cauſes, independently of all other Judges and Perſons whatſoever in *Brittany*, the Governor of the Province enjoys certain Rights and Privileges, which the Governors of other Provinces don't enjoy: And that in Commemoration of the ancient Independency of that Province, whoſe Princes, tho' they paid a ſort of Feudatory Homage to the Kings of *France*, yet were abſolute within themſelves as to the Government of the Dutchy. And thence it is, that the Judges of the Admiralty at this Time, tho' named by the King, at their Admiſſion into their Offices, pay a certain Formal Piece of Homage to the Governor, and muſt be approv'd by him; as will more plainly appear by the firſt two Articles of the Naval Ordinances eſtabliſh'd for that Province.

ARTICLE I.

The Governor of our Province of *Brittany*, ſhall in that Quality enjoy the Rights and Privileges of Admiralty, as he has hitherto enjoy'd, or ought to have enjoy'd the ſame within that Province.

ARTICLE II.

We ſhall appoint ſuch Judges as to us ſhall ſeem convenient, for taking Cognizance of Maritime Cauſes within our Province of *Brittany*; and ſuch as ſhall be ſo appointed after having receiv'd the Approbation of the Governor, ſhall take Cognizance each within the Limits mention'd in his Commiſſion, preferably to all others, and between all Perſons of what Quality ſoever; even privileged *French* and Strangers, as well ſuing as defending, of every thing relating to the Building, Tackle and Furniture, Arming, Victualling, Equipping, Sale and Adjudication of Ships, and of all Cauſes concerning the Marine, and the Navigation of our Subjects.

This in effect is the Difference, between the Naval Laws, or rather between the Way of Proceeding in Maritime Affairs in *Brittany*, and in the other Provinces of *France*, and which I have thought convenient to take notice of, becauſe tho' there be no very material Difference between theſe Ordinances, they are printed and publiſhed ſeparately, and under different Titles.

And now, that the Reader has ſeen theſe Laws, and I ſuppoſe read them with ſome Attention, and made the neceſſary Reflecti-

ons upon them; I hope he will not think his Time ill ſpent, nor them unworthy of the Character I have already given them, of the beſt and moſt accompliſh'd Syſtem of Sea-Laws ever yet heard of, ſince they contain all that is worth the while in all the Ancient and Modern Marine Statutes and Ordinances, with a great many excellent Additions and Amendments ſuitable to the Nature and Importance of the Subject, and worthy of the Reputation of the Renowned Stateſman to whom the World is indebted for this Maſter-piece of Policy and Equity; by which alone the *French* Nation, formerly unacquainted with the Sea, are now become ſo formidable there, as to pretend to diſpute with us the Empire of an Element that *Britain* always look'd upon as its own; and in which, before the laſt Age, it never met with any Competitors.

But of this more in the following Chapter, concerning the Naval Affairs and Laws of *England*, in which the Advantages that accrue to the *French* by their more Regular Way of Proceeding, will appear the plainer when compar'd with the Inconveniencies that this Nation ſuffers, becauſe of the Want of ſuch a commendable Eſtabliſhment.

Nor is it an eaſie Matter to diſcover to whom, or to what, this Failure on our Part is to be imputed. If it be a Misfortune only owing to the Devotion and Regard that moſt Nations generally have for their ancient Cuſtoms, I ſhall beg leave to put the *Engliſh* in Mind, that bad Cuſtoms are never the better for being ancient, nor can Antiquity juſtifie the Wiſdom and Policy of any Nation that continues the Practice of any thing that may be prejudicial to the State, becauſe their Fore-fathers did the ſame. The *French* did formerly labour under the like Inconveniencies, and then Foreign Trade was almoſt unheard of in that Kingdom; but ſince they have barter'd their ancient ridiculous Cuſtoms, for their Modern Syſtem of excellent Laws and Regulations for Trade and Commerce, there has happen'd ſuch a viſible Alteration for the better, as gives me Ground to believe, that was the ſame Thing done in *England*, conſidering the Native Advantages this Nation has over the *French* that Way, we might regain our former Aſcendant over them in Trade, and once more have the moſt conſiderable part of the Traffick of all the Univerſe, in our Hands: Which it will be my Buſineſs to demonſtrate more at large in the other Work already ſpoken of, where the Subject will naturally lead me to ſpeak more particularly to that Point.

CHAP.

CHAP. IX.

Containing the Collection of Modern Reports already mention'd out of ſeveral other Diſcourſes concerning the Marine *Affairs of* England, *with ſome Remarks and Illuſtrations.*

HAving in the Diſcourſe immediately preceding the Naval Laws of France *given a ſhort Account of the Nature and Conſtitution of the* Engliſh *Court of Admiralty, I intended to have joyn'd to that a Collection of Modern Reports in other Courts in Caſes relating to the Marine: But that Collection not being ready then, I have thought fit to inſert it in this Place; after which I ſhall proceed to entertain the Readers with ſuch other Things concerning the Sea Affairs as ſhall occur, and appear to be worth their Notice.*

ARTICLE I.

Mors & Sluce.

A Tryal at Bar.

'AN Action upon the Caſe was brought againſt a Maſter of 'a Ship, who had taken in Goods to tranſport them be-'yond Sea, for that he ſo negligently kept them, that they were 'ſtoln away whilſt the Ship lay in the River of *Thames*. *May-'nard* inſiſted upon it, that the Maſter was not chargeable: Say 'they, he is chargeable whilſt he is here, but when he is gone 'out of the Realm he is not chargeable, though the Goods be 'taken from him. Which Deſtruction, he ſaid, had no Foun-'dation in the Law. *Hales*, It will lye upon you that are for the 'Defendants, to ſhew a Difference betwixt a Carrier and a Ma-'ſter of a Ship: And it will lye upon you that are for the Plan-'tiff, to ſhew, why the Maſter of a Ship ſhould be charged for a 'Robbery committed within the Realm, and not for a Piracy 'committed at Sea. It was urged for the Plaintiff, That a Hoy-'man and Ferry-man are bound to Anſwer, and why not the 'Maſter of a Ship? The Defendant prov'd, that there was no 'Careleſſneſs nor negligent Default in him. *Maynard*, he is not 'chargeable, if there be no Negligence in him, becauſe he is but 'a Servant, and the Owner takes the Freight. *Hales*, he is *Ex-'ercitor Narvis*, if we ſhould let looſe the Maſter, the Merchant 'would not be ſecure; and if we ſhould be too quick upon him,

'it might discourage all Masters: So that the Consequence of 'this Case is great. But the Jury gave a Verdict for the Defen-'dant, the Court, for the Reasons aforesaid, inclining that way.

I hope that without being accus'd of making any undue Reflections upon the Justice of the Verdict that was given in the precedent Case, I may be allow'd, with due Submission, to make from thence some Observations, by which it will appear, how great an Unhappiness it is for us, that Merchants and Sea-faring People are oblig'd to apply to the Common Law for Justice in Marine Affairs; or at least are subject to the Inconvenience of having their Causes removed thither by an Appeal or otherwise.

Here is a Case in every Point remarkable enough, and in my humble Opinion, as unreasonable a Sentence pronounc'd as ever I heard of.

A Merchant it seems puts aboard a Parcel of Goods in a Ship lying at Anchor in the *Thames*, and there truly the Master suffers those Goods to be stole; and a very just Action being brought by the Merchant for the Recovery of his Goods, he is cast, and the Jury finds for the Defendant.

But perhaps of all the Causes that ever came before any Court of Judicature, none seems to have been more mistaken and less understood than this: For it being undeniable, that 'tis a General Rule in all other Parts of the Universe, as well as in *England*, that such Controversies ought absolutely to be decided according to the Custom of Merchants, the Jury ought to have laid the whole Stress of the Matter upon this Point, *viz. Whether a Bill of Lading had been sign'd by the Master, Mate, or Clerk of the Ship at the Delivery of the Goods.* For 'tis certain, that according to the Custom of Merchants, no Master nor Ship can be answerable for any Goods put aboard, except the Bill of Lading be sign'd by the Master or some other Person in Office under him: And if that be sign'd, common Reason may teach us that the Goods are in the Custody of the Master of the Ship, who must certainly be answered for whatsoever is put into his Hands, the Dangers of the Sea only excepted. Nor can a Robbery or Theft committed in the *Thames* be allow'd to be understood under the general Term of Dangers of the Sea, by which are only meant Shipwreck, being taken by Enemies, or being robb'd by Pirates *Super altum Mare*; or at least in some place where main Force and Violence may be presum'd to have been used, and the Seamen in the Exercise of their Duty overcome *Vi & Armis*, or *Manu-forti*. And certainly that Gentleman was in the right, who urg'd that the Action was good against the Master as *Exercitor Navis*.

AR-

Article II.

A Ship was pawn'd for Neceſſaries, and a Libel was exhibited in the Admiralty, though the Pawning was at the Land.

ANONYMUS.

'A Libel in the Admiralty againſt a Ship call'd the *Suſſex Ketch*, ſetting forth, That the ſaid Ship wanted Neceſſaries *ſuper altum Mare*; and that the Maſter took up ſeveral Sums of the Plaintiff at *Rotterdam*, for which he did Hypothecate the ſaid Ship; and upon a Suggeſtion that this Contract was made at St. *Katherines*, *infra Corpus Comitatus*, Council moved for a Prohibition, upon which a Queſtion ariſes, whether a Maſter of a Veſſel can pawn it on the Coaſt for Neceſſaries, and the Perſon to whom 'tis pawn'd ſhall ſue for the Money in the Admiralty here?

'By the Common Law a Maſter of a Ship had neither a general not ſpecial Property in it, and therefore could not pawn it; but by the Civil Law in Caſes of Neceſſity he may, rather than the Voyage ſhould be loſt; and if any ſuch Cauſe appear, 'tis within the Juriſdiction of the Admiralty; but then the Pawning muſt be *ſuper altum Mare*.

'Now the Statute of 28 *H.* VIII. *Cap.* 15. which abridgeth the Juriſdiction of the Admiralty in Trials of Pirates, and which appointeth Offences committed on the Sea to be try'd by a Commiſſion under the Great Seal, directed to the Admiral and others, according to the Courſe of the Common Law, and not according to the Civil Law, gives a Remedy in this very Caſe; for it provides that it ſhall not be prejudicial to any Perſon for taking Victuals, Cables, Ropes, *&c.* in Caſes of Neceſſity upon the Sea, paying for the ſame.

'So that this is an accepted Caſe, becauſe of the Neceſſity; and 'tis like the Caſes of ſuing for Mariners Wagons in this Court. The Service was at Sea, ſo that the Admiralty hath no Power or Juriſdiction over this Matter.

''Tis true, Prohibitions have been denied for Mariners Wages; the firſt is reported by Juſtice *Winch*, f. 8. but the Reaſon ſeems to be becauſe they proceed in the Admiralty not upon any Contract at Land, but upon the Merits of the Service at Sea, and allow or deduct the Wages according to the good or bad Performance of the Services in the Voyage.

'Beſides, there is an Act of Parliament, which warrants the 'Proceedings in the Court of Admiralty for Mariners Wages: 'For in a Parliament held in the 14th Year of *Richard* II. (*Cotton. 'Abr.* f. 340. *Nu.* 37.) the Commons petition'd for Remedy againſt 'great Wages taken by Maſters of Ships and Mariners; to which 'the King anſwer'd, That the Admiral ſhall appoint them to take 'reaſonable Wages, or ſhall puniſh them.

'Now the Reaſon of the Civil Law, which allows the Pawn-'ing of a Ship for Neceſſaries upon the High Sea, ſeems to be 'plain, *viz.* becauſe there may be an extraordinary and invinci-'ble Neceſſity at Sea, but not at Land.

'So that this being a Contract beyond Sea and at Land, the 'Court of Admiralty cannot have any Juriſdiction over it; for 'where the Common Law cannot relieve, in ſuch Caſes the Ad-'miralty ſhall not, becauſe they are limitted to Acts done upon 'the Sea, and in Caſes of Neceſſity; for if the Law ſhould be o-'therwiſe, the Maſter may take up as much Money as he will.

'Mr. *Pollexfen contra*; That things ariſing upon Land may be 'ſued for in the Admiralty, is no new thing; for ſo it is in all 'Caſes of Stipulation: Mariners Wages are alſo recoverable in 'that Court, not by Virtue of any Act of Parliament, but be-'a Maritime Cauſe, though the Contract for that Service with 'the Maſter was at Land: But the principal Reaſon why Mari-'ners Wages are ſued for in the Admiralty, is becauſe the Ship 'is liable as well as the Maſter, who may be poor and not able 'to anſwer the Seamen.

'*Curia.* Take a Tryal upon the Neceſſity in this Caſe.

Remark upon the Pre.edent Caſe.

AS to this Caſe I have already declared plainly, that 'tis my Opinion, That the Admiralty only ought to have Cogni-zance of all Matters and Tranſactions that are Maritime in their Nature, whatever they be by the Accident of the Place. Nor am I yet reſolv'd to alter my Mind; but on the contrary, as Occa-ſion ſhall offer, I ſhall more and more endeavour to evince the Reaſonableneſs (not to ſay the Neceſſity) of leaving the Deci-ſion of all ſuch Cauſes to the Court of Admiralty, and to it only. But at the ſame time, I cannot ſay but that he wou'd be highly convenient to make ſome Alterations in the Conſtitution and Manner of proceeding of that Court it ſelf as it is now eſtabliſh'd in *England.*

ARTI-

Article III.

Whether Trover *will lye for a Ship, after Sentence in the Admiralty for the ſame Ship.*

Beak *verſus* Thynwit.

'THere was a Sentence in the Court of Admiralty concerning the taking of a Ship, and afterwards an Execution brought, and Action of *Trover* and *Converſion* for the ſame.

'The Defendant after an Imparlance pleads, That at the time of Converſion he was a Servant to King *Charles* the *Second* and a Captain of a Man of War call'd the *Phœnix*, and there he did ſeize the ſaid Ship for the Governour of the *Eaſt-India* Company, ſhe going in a Trading Voyage to the *Indies* contrary to the King's Prohibition, *&c.*

'And upon a Demurrer theſe Exceptions were taken to this Plea.

'1*ſt*. The Defendant ſets forth, that he was a Servant to the King, but hath not ſhewed his Commiſſion to be a Captain of a Man of War.

'2*dly*. That he ſeiz'd the Ship going to the *Indies* contrary to the *King*'s Prohibition, and hath not ſet forth the Prohibition it ſelf.

'It was Argued by the Council, *contra*, That it may be a Queſtion, whether this was the Converſion for which this Action is brought, for it was upon the Sea, and the Defendant might plead to the Juriſdiction of this Court, the Matter being then under the Cognizance of the Admiralty?

'But as to the Subſtance of this Plea, 'tis not material for the Defendant, either to ſet forth his Commiſſion or the King's Prohibition; he hath ſhewed enough to entitle the Court of Admiralty to a Juriſdiction of this Cauſe, and therefore this Court cannot meddle with it; for he expreſly affimeth, That he was a Captain of a Man of War, and did ſeize this Ship, *&c.* which muſt be intended upon the Sea: So that, tho' the Converſion afterwards might be upon the Land; yet the Original Cauſe ariſing upon the Sea, ſhall and muſt be tried in the Admiralty; and it having already received a Determination there, ſhall not again be controverted in an Act of *Trover*.

'The

'The Case of Mr. *Hutchinson* was cited to this purpose, who 'killed Mr. *Colson* in *Portugal*, and was acquitted there of the 'Murder: The Exemplification of which Acquital he produced 'under the great Seal of that Kingdom, being brought from '*Newgate* by an *Habeas Corpus* to this Court; notwithstanding 'the King was very willing to have him tried here for that Fact; 'the Consideration whereof he referred to the Judges, who all 'agreed, that he being already acquitted by the Law, could not 'be tried again here. *Adjornatur.*

This Case is so plain that it needs not any Illustration.

ARTICLE IV.

Radly & Delbow *versus* Eglesfield & Withal.

'IN an Action *sur.* 13 *R.* 2. *C.* 5. & 2 *H.* 4. *l.* 11. for suing the 'Plaintiff and the Admiralty, for a Ship called the *Malmoise*, 'pretending she was taken *Piraticè*; whereas the Plaintiff bought 'her *infra Corpus Cum.* It seems there was a Sentence of Adjudica- 'tion of her to be a lawful Prize in *Scotland* in April 1667. as ha- 'ving carried *Bellicos Apparatos* (*i.e.* Contraband Goods) in the 'last *Dutch* War, and the Plaintiff bought her here under that 'Title.

'The Libel was, That the Ship belonged to the Defendants, 'and about *January* 1665. was laden with Masts, and had Letters 'of safe Conduct from the Duke of *York* to protect her from Con- 'cussion, *&c.* and that certain *Scotish* Privateers did practise to 'take the said Ship; and after the Defendants took her, and be- 'ing requested, refused to deliver her, and that *Rationi lucri ces- 'santis and damni emergentis*, they suffer'd so much loss, *&c.*

'The Defendants pleaded *not Guilty* to this Action, and upon 'the Tryal would not examine any Witnesses, but pray'd the 'Opinion of the Court, who said, there was good Cause upon 'the Libel (which now they must take to be true) in the 'first Instance for the Admiralty to proceed. In 43 *Eliz.* it 'was resolved, if Goods are taken by Pirates on the Sea, tho' they 'are sold afterwards at Land, yet the Admiralty had Cognizance 'thereof; for that which is incident to the original Matter, 'shall not take away the Jurisdiction, ane that is Law tho' there 'were another Resolution in *Bingley*'s Case, 3. *Jac.* 7. *Ed.* 4. 14. and '22 *Ed.* 4. If Goods are taken by an Enemy, and retaken by an '*English man*, the Property is changed: Otherwise, if by Pirates. 'And if in this Case the Taking were not *Piraticè*, it ought to

'have

'have been alledged on the other ſide. Had the Sentence in *Scot-*
'*land* been pleaded in the Admiralty, the Court would have given
'Deference to it; as if a Man had a Judgment in *Communi Banco*,
'and ſhould begin a Suit for the ſame in *Banco Regis*; this might
'be made a good Plea to the Suit, but not to the Juriſdiction;
'for, for ought appear'd, this might have been the firſt Proſecu-
'tion, and no Proceedings might have been in *Scotland*.

'This came to be try'd at the *Niſi Prius* before *Hales*, who was
'of the Opinion, *ut ſupra*, then. But becauſe it was a Cauſe of
'Weight, he order'd it to be try'd at the Bar. And becauſe
''twas for his Satisfaction, and for full Reſolution, the Jury was
'paid between the Parties. *Note*, A Proctor, ſworn a Witneſs,
'ſaid, when this Cauſe was in the Admiralty, there was a *Provi-*
'*ſionate Decree*, as they call it, or *Primum Decretum*, which is a De-
'cree of the Poſſeſſion of the Ship, and upon that an Appeal to
'the Delegates; but my Lord Keeper being inform'd, that no
'Appeal to them lay upon it, becauſe it was but an Interlocutory
'Decree, upon hearing of Council he ſuperſeded the Commiſ-
'ſion.

'When a Ship is ſo ſerv'd, upon Security giv'n, 'tis the Cu-
'ſtom of the Admiralty to ſuffer her to be hired out.

Article V.

ANONYMUS.

'A Prohibition was pray'd to the Admiralty where there was
'a Libel for a Ship taken by Pirates, and carried to *Tunis*,
'and there ſold; for that it did not appertain to the Court to try
'the Property of the Ship being ſold upon Land.

'*Curia.* In regard it was taken by Pirates, it is originally
'within the Admiral's Juriſdiction, and ſo continues notwith-
'ſtanding the Sale afterwards upon Land. Otherwiſe where a
'Ship is taken by Enemies, for that alters the Property: And
'this was the Opinion of the Court in *Egleſfield*'s Caſe in my Lord
'*Hales*'s Time, contrary to my Lord *Hobart* in the Spaniſh Am-
'baſſador's Caſe, they have Cognizance of the Caſe of the Pirate;
'becauſe incident to the Principal Matter.

But afterwards it was obſerv'd upon the Libel, That there was no mention made, that the Ship was taken *Super altum Mare*. And tho' there was contain'd therein very much to imploy it, yet the Court held that to be abſolutely neceſſary to ſupport their Juriſdiction. *Note*,

Note. One taken upon an *Excom' Cap'* was diſcharg'd, becauſe the Writ *de Excom' Cap'* was not deliver'd into this Court and enroll'd, as is requir'd by the Statute.

ARTICLE VI.

Term. Sanct. Trin. Anno 21 Car. II. *in Banco Regis.*

Durado *verſus* Gregory.

The Caſe was this.

'THere was a Contract at *Malaga* concerning Lading of a 'Ship, and for breach of this, which was ſaid to be upon 'Sea, *viz.* That the Maſter would not receive 40 Butts of Wine 'into the Ship according to the Agreement; there was a Libel in 'a Foreign Admiralty, and Sentence that the Wine ſhould be re-'ceiv'd into the Ship; which being refuſed, another Libel was 'commenc'd in the Admiralty here in *England*, reciting the for-'mer Sentence, and charging the Defendant with the Breach of 'it; and a Prohibition was pray'd, becauſe it appears the Con-'tract was made upon the Land.

Againſt which it was objected by *Finch*, Sollicitor, That where Sentence is obtain'd in a Foreign Admiralty, one may Libel for Execution thereof here; becauſe all the Courts in *Europe* are govern'd by the Civil Law, and are to be aſſiſtant one to another, though the Matter were not originally determinable in our Court of Admiralty: And for this he cited a Judgment 5 *Jac. Rolls Tit. Courts Sect. Admiralty*; and to this the Court agreed. But here was no compleat Sentence in the Foreign Admiralty, but only an Award, that the Wine ſhould be receiv'd; and now for Breach thereof he ſues here, which is in nature of an Original Suit, and to have Execution of the Sentence; and this ought not to be, though the Breach was at Sea, it being of a Contract made upon the Land, wherefore they granted a Prohibition. 1 *Roll.* 929. *No.* 3. 1 *Sand.* 274, 275.

The King grants *bona & catalla falonum*, the Grantee ſhall not have Felons Debts, nor *bona & catalla falonum de ſe.* 1 *Sid.* 142. 420. 2 *Roll.* 125. *No.* 1.

Remarks,

Remarks, &c.

HERE again is another Caſe, where we find a Prohibition granted for removing from the Admiralty the Cognizance of a Difference ariſing upon a Contract, which tho' it was made at Land, yet it is certainly Maritime in its Nature: It being in *effect* nothing elſe but a Charter-party or Agreement between a Merchant and a Maſter of a Ship, that the latter ſhould tranſport a certain Quantity of Wine from *Malaga* to another Port.

Now how reaſonable it is that the Deciſion of a Cauſe ſo properly Maritime in its Nature, ſhou'd be removed from the only Marine Court of the Nation, I leave it to every indifferent Perſon, that is converſant that way, to judge, without inſiſting any further upon it at this time; and ſhall refer the Reader to the Reflections I ſhall hereafter make upon it, when I come to ſpeak more cloſely to that point, and to demonſtrate more at large the Advantages which wou'd accrue to the *Engliſh* Nation, by aſcertaining the Juriſdiction of that Court, and ſettling it upon a firmer Foundation than that it ſtands upon at this time.

ARTICLE IV.

Sparks, *&c. verſus* Martyn.

'*Jones* moved for a Prohibition to the Court of Admiralty, for 'that they Libelled againſt one for Reſcuing of a Ship, and 'taking away the Sails of it from one that was executing the Pro'ceſs of the Court againſt the ſaid Ship, and for that in the Pre'ſence of the Judge, and in face of the Court, he Aſſaulted and 'Beat one, and ſpoke many opprobrious Words againſt him. Now 'ſeeing that theſe matters were determinable at Law, the Ship 'being *infra corpus Comitatus*, and they could not adjudge Damages 'to the Party, or fine or impriſon him; he prayed a Prohibition.

'But the Court denied it, (*abſentibus Windham & Moreton*) for 'they may puniſh one that reſiſts the Proceſs of their Court, and 'may fine and impriſon for a Contempt to their Court, acted in the 'Face of it, tho' they are no Court of Record; but if they ſhould 'proceed to give the Party Damages, they would grant a Prohi'bition *quoad* that: And of that Opinion was *Wyndham*, the Caſe 'being afterward put to him by the Chief Juſtice. But the Par'ties afterwards put into their Suggeſtion, That the Original 'Cauſe upon which the Proceſs was grounded, was a Matter

'whereof the Court of Admiralty had no Cognizance: Where-
'fore a Prohibition was granted; for then the Reſcue could be
'not Contempt.

ARTICLE VIII.

Termini Sancti Michaelis, Anno 31 *Car. II. In Banco Regis.*

'A Prohibition was pray'd to the Court of Admiralty upon a
'Suggeſtion, that the Suit was there upon a Contract made
'upon the Land; the Caſe was thus:

'A Bargain was made upon the Land with ſeveral Seamen, to
'bring up a Ship from a Port in *England* to *London*, for a certain
'Sum to them to be paid; and for the Prohibition 'twas alledged,
'that this being upon the Land, and a contract with divers joynt-
'ly for a Sum in groſs, it could not be within the ordinary Rule
'of Mariners Wages, which is permitted to be ſued for in the
'Court of Admiralty, in favour of the Mariners, becauſe they
'may all joyn in that Court, and not be put to the inconvenien-
'cy of ſuing ſeverally, as they muſt at Law; but as this Contract
'is, they are to ſue joyntly at Common Law.

'But the Prohibition was denied, for this muſt be taken as Ma-
'riners Wages.

'And therefore, tho' the Contract was upon the Land; yet
'they have Juriſdiction: Beſides, the Party comes after Sentence,
'and therefore in the Court's Diſcretion, whether they will then
'grant a Prohibition.

'*Note*, A Rump-Act was made to enable Mariners to ſue for
'Wages in the Admiralty, but yet the Law was taken to be
'ſo before.

Remarks, &c.

This Deciſion I take to have been very Juſt, and not only con-ſonant to the Cuſtoms of Merchants, but likewiſe to the Laws and known Cuſtoms of the Land. For it being evident that if Mariners were oblig'd to ſue for their Wages at Common-Law, where each muſt bring a ſeparate Action, not one of 500 of 'em cou'd be able to bear the Charge; and if they were, what they wou'd be obliged to loſe at home, together with the neceſſary Charges of a ſuit at Common Law, wou'd more than counter-

vail

vail any Sum that cou'd be due to them for the longeſt Voyage that can be made. It has always been the Practice of this Nation to allow them to joyn in their Suit in the Court of Admiralty.

Nor would it have been reaſonable for the Court to have allow'd a Prohibition in the precedent Caſe, tho' there too they might have all joyn'd in the Suit: For 'tis plain that the Contract was made to pay a certain ſum of Money to certain Mariners upon that Condition and Conſiderations, *viz.* That they ſhou'd ſail, or bring up a certain Ship, from another Place therein ſpecified, to the Port of *London*. Which Agreement, whatever other Name may be given to it, is indeed nothing elſe but a Contract for Mariners Wages, and conſequently ought not to be Judged any where but in the Court of Admiralty.

ARTICLE IX.

Sands *verſus* Child.

Trin. 4. *Willielmi Rot.* 129.

'ERror of a Judgment in the common Bench, in an Action on 'the Caſe brought by the Plaintiff *Sands*, for Proſecuting of 'him in the Admiralty, contrary to an Act of Parliament: In 'which there was a ſpecial Verdict found, and Judgment for the 'Plaintiff, and Damages to 1500 *l.*

'The Caſe upon the Pleadings was, *viz.* The Decleration ſets 'forth the Statute of 13 *R.* 2. *cap.* 5. *That the Admiralty and their 'Deputies ſhall not meddle with any Thing, but what is done upon the 'Sea*, &c. then it recites the Statute of 2 *H.* 4. *cap.* 11. which takes 'notice of the former Act, and ordains, that the Common Law 'ſhall be put in Execution againſt Proſecutors in the Admiralty, 'by an Action on the Caſe, and the Party grieved ſhall recover 'double Damages, and the Proſecutor being attainted, ſhall for'feit 10 *l.* to the King.

'That on the 13*th* Day of *December*, 34. *Car.* 2. Mr. *Sands* was 'going to the *Maderas* in the Ship call'd the *Expectation*, laden with 'divers Goods to trade there; and being about to ſail, the De'fendant *Child* did cauſe a Plaint to be levied againſt him in the 'Admiralty Court, and thereupon Proceſs did iſſue out of the 'ſaid Court to ſtop the Ship from a Voyage to Infidels without 'the King's Licenſe, and the Ship was arreſted till Mr. *Sands*

'ſhould give Security that he would not ſail to any Parts con-
'tain'd in the Charter of the *Eaſt-India* Company, which he re-
'fuſed to do.

'They find that King *Charles* II. did grant to the Governour and
'Company of *Eaſt-India*, &c. a Patent by which they were incor-
'porated, and had the whole Trade to the *Indies*, prohibiting all
'other Perſons to Trade within their Limits, and the Places in
'the ſaid Patent contained, upon the Forfeiture of Ship and
'Goods. That Mr. *Sands* had prepared this Ship to ſail for the
'*Madera's*, and from thence to a certain Place in the *Indies*,
'within the Limits of the Company to Trade with Infidels, to
'prevent which, the Defendant *Child* and others, delivered a Pe-
'tition to the King in Council (which was found *in hæc verba*)
'praying, That the Ship might be ſtayed till Security was given
'not to Trade within the Limits of the Company; and thereup-
'on an Order of Council was made, directing the Court of Ad-
'miralty to iſſue our Proceſs againſt the Ship, till Security ſhou'd
'be given to the ſaid Court, that the Ship ſhall not Trade with
'Infidels within the Limits of the Charter, and that the then
'Plaintiff *Child* and *Leech*, as Agent to the Company, did obtain
'a Warrant upon this Order againſt the Ship, by Force whereof
'ſhe was ſtopped.

'There was Judgment for the Plaintiff *Sands* in the *C. B.* and
'Damages *in duplo* to 1500 *l.* and a Writ of Error now brought,
'and the Frror ſigned was in Point of the Judgments given,
'*viz.* Whether the Matter upon the whole Record is ſufficient to
'charge the Defendant *Child*: And as to that, the Argument was
'upon theſe two Points:

(1.) That what was done by him was Lawful.

(2.) That he hath not incurred the Penalty of the Statute, be-
'cauſe this was not a Proſecution within the meaning thereof.

(1.) 'As to the firſt Point, it will not be denied, but the King
'his Prerogative may ſtop the Ship of any Subject, and ſhut up
'the Ports of the Kingdom at his Pleaſure, eſpecially where the
'Safety of the Nation is concerned, *viz.* in time of any imminent
'Danger; this is confirmed by daily Experience of Embargo's laid
'on outward-bound Ships.

'And as he may ſtop Ships, ſo he may reſtrain the Perſons of
'his Subjects from departing the Kingdom, leſt they ſhould aſ-
'ſiſt his Enemies; and for this purpoſe was the Writ *Ne exeat*
'*regno* framed: And after ſuch an Expreſs Prohibition, 'tis a Con-
'tempt of the King's Authority to depart out of the Realm, and
'Finable by Law.

'Now

'Now to prevent ſuch departure of Ships, the Method is, and 'always hath been, to inform the King of the Matter by Petition, 'who thereupon uſually directs his Advocate or Proctor to re- 'quire Caution, that the Maſter ſhall not Trade with Infidels, 'who are *Perpetui Inimici*, and thereupon Proceſs iſſues out of the 'Admiralty, and the Ship is arreſted; and this is in Conformity 'to the Common Law of the Land, as may appear by the Writ '*de Securitate invenienda quod ſe non divertat ad partes exteras ſine li-* 'centia Regis; and that my Lord *Cooke* hath affirmed that he had 'ſeen ſuch a Licenſe in the time of *Edward* III.

'(2.) This is not a Proſecution intended by either of the afore- 'ſaid Acts, which reſtrain the Juriſdiction of the Admiral; and 'this will appear if it be conſidered upon what Complaints and 'Petitions thoſe Laws were made.

'For the Statute of 13 *R.* 2. was made upon the Petition of ſe- 'veral Lords of Franchiſes, complaining that the Admirals and 'their Deputies had kept their Seſſions within their Liberties, 'and ſo had encroached upon their Rights.

'The other Statute of 15 *R.* 2. was made upon the like Com- 'plaint, but then alſo divers Cities and Burroughs Petitioned a- 'gainſt the Encroachment of the Admirals, by holding Pleas of 'Contracts, Wrecks, Nuſances, *&c.* and for Summoning of Peo- 'ple at great Charge and Expence to attend their Courts at *Lon-* 'don, and impriſoning them upon Refuſal.

'Now the Cauſe for which this Ship was ſtopped, was not for 'doing any thing prohibited by either of theſe Statutes; or for 'any thing contained in the Petition, upon which the Order was 'made; 'tis only that the People ſhould not Trade with Infidels 'without the King's Licenſe, leſt they ſhould decline from their 'Faith and Religion; ſo that it was not for doing any thing, but 'only a Caution to prevent a thing from being done.

'Then as to the Statute of 2 *H.* 4. which gives an Action on the 'Caſe to the Party grieved, by a Proſecution in the Admiralty, 'the meaning muſt be, when he is grieved by a vexatious Suit 'brought in their Court, to abridge the Power of the Courts at 'the Common Law; which was done by Defendants, becauſe the 'Court of Admiralty had a Juriſdiction over this Matter.

'Beſides, this laſt Statute which gives the Action againſt the 'Proſecutor in the Admiralty, doth likewiſe give the King 10 *l.* 'upon his Attainder. But this Proceeding being by Order from 'the King himſelf in Council, it can never be intended that he 'ſhall have any Forfeiture for a Proſecution made by his expreſs 'Direction, which is the reaſon why this is not ſuch a Proſecuti- 'on as is intended by the Act.

'But

'But really this was no Suit at all; for there was neither Plaintiff nor Defendant, nor any thing in demand: Here was no Libel on which to ground a Prohibition, and so by consequence no Cause for any Action against the Plaintiffs in Error, who were only Agents to the *East-India* Company; so that if an Action must be brought, it ought not to be by Mr. *Sands* alone, without his Partners, and it ought to be against the Company; for these Persons, only as their Agents, Petitioned the King in Council, and requir'd Caution, *&c.* the King directed the Method; so that if this be a Suit, and if 'tis a Prosecution, it was for the Benefit of the Company, and the Action ought to be brought against them, and it being upon a Penal Law, ought not by Equity to be extended to Agents, for they are not to be Punished by such a Law, unless named; and therefore in the Statute of *Præmunire*, and Statutes 16 *R.* 2. they are expresly named.

'*E contra* (1.) The stopping of this Ship was illegal.

'At the Common Law no Man is Prohibited to travel out of the Realm, the Seas are open, and he might go whither he would, without any Restraint upon his Person or Goods, whether he Traded with Infidels or not; and this appears by the Statute of 26 *H.* 8. *cap.* 10. which gave the King Power (during his Life) to restrant Trading beyond Sea, to particular Places, which had been to little purpose, if he could have done it by his Letters Patents, without the help of an Act of Parliament; and the Common Law being restored by the Expiration of that Act, no Force or Restraint can now be put upon any Man's Property, without a Breach of the Peace.

'No Inference can be made from Embargo's, or from the Writ *Ne exeat regno*, to extenuate what was done in this Case; for the one is never laid upon Ships but in time of War; 'tis a Prohibition of State by Advice of the Council, and not at the Prosecution of Parties, as this was, under the pretence of Trading to Infidels; for both Mr. *Sands* and his Ships-Crew might have gone to any Infidels, so that they would refrain from those of the Company.

'Then as to the Writ *Ne exeat regno*, 'tis only granted, and that very rarely too, upon particular Reasons, and for particular purposes to prohibit a single Person from departing the Kingdom, not so many Men as were going this Voyage to Trade beyond the Seas.

'(2.) The Defendant in this Action might as well have impounded a Man's Cattle, till he give Security not to commit a Trespass; he might as well have Levied Money before Judgment, or seized before a Trial, which is very like this Case; so

'that

'that what he did, cannot be Lawful; and the finding of the 'Charter is not Material; for if by that they had any Power to 'ſtop the Ship, then there had been no need of Petitioning the 'Council.

'Neither can it be doubted whether this is a Proſecution with-'in the meaning of the Act, for the preferring a Petition was in-'termedling with a thing not done upon the high Sea; there was 'an Advocate and Proctor, there was an Allegation and Surmiſe 'of the matter of Complaint; then a Prayer that the Court would 'make a Decree againſt the Ship; then there was a Judgment, 'and a Warrant upon it, which was executed; and can it be 'doubted after all this, whether it was a judicial Proſecution or 'not?

'But Proſecution it is, and that which is within the meaning 'of the Statute; for the Arreſting of the Ship *infra Corpus Comitatus* 'where the Admiral can have no Juriſdiction, is ſuch a Proſecu-'tion as is clearly againſt the Statute; for the Property of Goods, 'tho' confiſcated, ſhall not be tried by him, but by the Common 'Law, and therefore *Cornero*, a *Spaniard*, having committed ſe-'veral Crimes in *Spain*, by which he had incurred the Forfeiture 'of his Goods, brought them into *England*, and ſold them to Sir 'John *Watts*, againſt whom Don *Alonſo de Valeſco*, libelled in the 'Admiralty, and prayed an Attachment of the Goods in the 'Hands of Sir *John*; but a Prohibition was granted.

''Tis a weak Objection to ſay, that this cannot be a Proſecu-'tion, becauſe there was no Defendant; for the Proceedings in 'the Court of Admiralty are againſt the Ship, and the Owners 'uſually come in *pro intereſſe ſuo*, and 'tis yet a weaker Objecti-'on, that Mr. *Sands* is not a Party grieved, for the Damages are 'direct, and not conſequential; the taking of the Ship out of his 'Poſſeſſion, is the Cauſe of the Action, neither are all conſe-'quential Damages rejected by the Law, but ſuch only which are 'far off, and ſuch of which there is no Certainty whether they 'may happen or not.

'Laſtly, Mr. *Sands* alone may bring this Action, becauſe he had 'the Ship in his Poſſeſſion, and therefore was the Principal; and 'tho' the Property of the Goods was in ſeveral Men, yet none 'had a Right to the Ship beſides himſelf: 'Tis true, Merchants 'have a ſeparate Intereſt in their Goods, and may therefore have 'ſeveral Remedies, but the Maſter alone hath a Right to the 'Ship.

'By the Statute of 1 and 2 of *Philip* and *Mary*, *cap.* 12. the Pe-'nalty of 5 *l.* is given where a Diſtreſs is taken, and driven a-'bove three Miles out of the hundred; if the Cattle of three Men

'are

'are distrained, and drove out of the Hundred, &c. each of them 'shall have an Action of 5 *l. Dyer* Reports a Case of one *Byloto* 'that doth something resemble this, *viz.* Two Men bought a 'Ship of him upon a Contract in the Admiralty-Court, and for 'the Offence he brought an Action against one alone, and it 'was held good; but that of *Seaton* and *Willet* there cited, is di-'rectly to the Point; which was, *viz.* Two Men sued in the Ad-'miralty for a Cause arising at Land, the King, and one of the 'Persons grieved, brought an Action against one of the Prose-'cutors, without shewing the Death of his Companion; and 'the Judgment was, that the Party grieved *recuperet damnum & 'quod Defendens pœnum* 10 l. *erga Regem per Statut' prædict' incurrat '& capiatur, & quod Dominus Rex recuperet versus Defenden.* 10 l. & 'capiatur. In which Case both the Costs and Damages are 'doubled.

'But 'tis in no sort like the Case lately adjudged in the *K. B.* 'between *Boson* and *Sandford*, which was this; an Action was 'brought against the Defendant, for that he and seven other 'Persons were Proprietors of a Vessel which used to carry Goods 'for hire, and the Plaintiff's Goods were Damnified by the 'negligence of the Defendant, who was one of the Proprietors, 'and against whom alone the Action was brought: There it was 'held, and tho' there was no actual Contract between the Plain-'tiff and the Part-owners, yet they all having an equal Benefit, 'and the Ground of the Action arising upon trust, which sup-'poses a Contract, the Action ought not to be brought against 'one, but all.

'But this Action arises upon a Trespass, and not upon a Con-'tract, in which one may sue alone without joyning of his Part-'ners, in which consequential Damages may be given, as Loss 'of time, &c. As if an Action of Battery should be brought for 'breaking of a Leg, 'tis not necessary to give in Evidence that 'the Party cannot go, because 'tis the Consequence of break-'ing; therefore such Damages which were given here, are of 'immediate Consequence, and within the Statute, for which 'the Party ought to be relieved, as well as for the taking of the 'Ship.

'Then as to the Action being brought against the Agents, and 'not against the Company, 'tis well enough, because 'tis impos-'sible to sue the Company.

'For it doth not appear that they were concerned in this Pro-'secution, or that it was done by their Order. And tho' the 'others acted as Agents or Attornies, yet they must take care 'to do what is Lawful; and here even the Company it self cou'd

'not

'not *juſtifie this* Proſecution, and neither ſhall this Attorney or 'Agent.

'Afterwards in *Michaelmas Term* the Judgment was affirmed; 'But *per Curiam* the Partners ought to have been joyned with 'the Plaintiff in this Action, which not being done, the Defen-'dant might have pleaded it in Abatement, and averred that they 'were living at the time of the Action brought; which had been 'a good Plea: But this likewiſe was omitted, and therefore the 'Plaintiff had his Judgment.

Remarks, &c.

Here is a tedious Caſe, and many Allegations made, and Arguments brought on both ſides, as to the Legality of the Proceeding, the Formality of the Action, and a great many other Niceties and Punctilio's of Law; with which, as Merchants are for the moſt Part abſolutely unacquainted, ſo it were to be wiſh'd, that they did not lie under any neceſſity of diverting themſelves from the Affairs of their Commerce, to learn ſuch a coſtly and uneaſy Art, as that of managing a Suit at Common Law.

This Caſe indeed ſeems to be of a higher Nature than Ordinary; and in Conſideration that it affects the Prerogative of the Crown, I ſhall not pretend to enter into the Merits of the Cauſe on either ſide, nor to determine who was in the Right, and who in the Wrong; and whether the Agent of the *Eaſt-India* Company proceeded Legally in ſtopping and detaining the Ship, bound on a Trading Voyage to ſome Place within the limits of their Charter. That Queſtion I leave to be decided by the proper Judges; but mean time I hope I may be allow'd to make ſome modeſt Reflections upon one of the Caſes reported by the Council for the Plaintiff, which is that of *Boſon* and *Sandford*, where, in my humble Opinion, the Verdict was given quite contrary to what it ſhou'd have been according to the Cuſtom of Merchants.

Boſon it ſeems, had put a certain Parcel of Goods aboard a Veſſel, of which *Sandford* was Maſter and Owner, or Part-Owner; and theſe Goods being damnify'd while in the Cuſtody of *Sandford*, *Boſon* brought an Action againſt him for the Damage, but was Caſt; becauſe it was prov'd, or ſuggeſted, that the Maſter of the Veſſel had Partners which were not mention'd in the Action.

I wou'd not have the World miſtake me, and think, that I pretend to queſtion the Legality of the Verdict, and the Juſtice of the Court that gave it: I don't doubt but it was according to

Law, that is, to the Common Law of the Land; but I muſt be allow'd to ſay, that it was not according to the Cuſtom of Merchants, who in all the Countries of the World do look upon the *Exercitor Navis*, or Maſter of the Ship, whether he is Proprietor, in whole or in part, or not at all, as the Perſon who is properly reſponſible for every thing whatſoever, that is committed to his Charge in Quality of Maſter of the Ship.

And indeed it muſt be acknowledged, that 'tis a vaſt Inconveniency for Merchants to lie under a Neceſſity of enquiring into ſuch Matters. They are Perſons generally ſo taken up with their other Buſineſs, that they have but little time to imploy in making ſuch Enquiries: And ſince it will not be deny'd that they are the Life, and Soul, and Riches of the Nation, and that without Traffick, *England*, would quickly ſink a great many Degrees below the Station in which it now appears in *Europe*; I think it is but reaſonable, that in imitation of other Nations, who have not yet been ſo obliged to Trade as we, all convenient Encouragement ſhou'd be given to the Trading ſort of People, who ſhou'd be allow'd in Law, and every other thing, to go to Work the ſhorteſt and eaſieſt way that may be: But of this I ſhall have occaſion to Treat more largely in another Volume, of which I have ſpoken above.

ARTICLE X.

Jefferies *verſus* Legendre.

'AN Action on the Caſe was brought by the Plaintiff upon a 'Policy of Aſſurance of Goods, from *London* to *Naples*, upon 'the Ship call'd the *Olive-Branch*; the Adventure was to begin at 'the time of Lading the Ship at *London*, and ſeven Guineas was 'the *Præmium* for every 100 *l.* inſured, Dangers of the Sea only 'excepted. At the bottom of this Policy theſe Words were Sub-'ſcribed, upon which the Queſtion did now ariſe, *viz.*

Warranted to depart with Convoy.

'The Plaintiff in his Declaration did own, that the Ship did 'depart with Convoy, that ſhe was taken by the *French*, that the 'Defendant had Notice of it, but did not pay the Money, *&c.*

'Upon *Non aſſumpſit* pleaded, the Jury found a ſpecial Verdict 'to this purpoſe, *viz.*

'They

'They find the Policy of Assurance, and that the Defendant 'subscribed, that the Ship departed out of the River *Thames*, under the Convoy of a Man of War; that about the *Isle of Wight* 'she was separated from the Convoy by bad Weather, and put 'in at *Torbay*, and was there detained by contrary Winds. That 'the Master of the Ship expecting to meet the Convoy, departed out of the Harbour, but could not meet her, being hindred 'by stress of Weather; that the Ship was taken by the *French*, 'and so lost.

'The Question was, that the true meaning of these Words are, '*viz.* Warranted to depart with Convoy.

'The Council for the Plaintiff would have it, that no more 'was intended than a Departure with Convoy at the first setting 'out of the River, which being provided by the Insurers, they 'had fulfilled their Warranty, and so ought to recover.

'That what was afterwards done by the Master of the Ship, 'in coming out of the Harbour, ought not to prejudice the Plaintiff; for the Master is in nature as a common Carrier to convey 'Goods from one Part to another; but as 'tis found by the Jury 'he did not misbehave himself, for he came forth to meet his 'Convoy, and did endeavour it, but was hindred by the Weather.

'These Words imply a mutual Covenant, and the rather be'cause they come in the Conclusion of the Policy; but admitting 'it to be a Condition precedent, the Plaintiff hath performed all 'he ought to do, for 'tis expresly found that the Ship did depart 'with Convoy.

'Suppose the Words had been Warranted to depart with Con'voy, and so to continue to the End of the Voyage, (Dangers of 'the Sea only excepted) if the Ship should happen to be taken 'by the Enemy, that is a danger at Sea; or if the Convoy leave 'her, being commanded another way by the King; or if she is 'assaulted, and will not fight, the Insurers shall lose nothing in 'either of these Cases: The Meaning of these Words are, That all 'necessary care shall be taken to preserve the Ship, which was 'done by the Plaintiff, therefore he ought to recover.

Contra. 'By these Words, the Ship ought to go all the way with 'Convoy, and not only out of the Mouth of the River, where 'there is no danger, for that could never be the meaning or intention of the Parties, and that she should be left at Sea where 'there is danger.

'Now a Policy of Assurance is but a Parole-contract, and must 'be construed according to the Minds of the Parties, and not 'according to the strict Sense of the Word.

'As if a Man covenants to make such a Voyage, and to bear 'all Losses (excepting Perils at Sea) and the Ship was taken in the 'Voyage *per quosdam ignotos & bellicosos*, such taking by Pirates 'was held to be Perils of the Sea.

'When a Person is obliged to secure a thing under such Terms 'and Circumstances, the manner of the Promise must be observ'd 'and pursued. As if I promise to pay 50 *l.* to another, sending 'his Servant to me on such a day; if he doth not send his Ser-'vant, the Obligation ceases on my part.

'So if a Promise be made to deliver Goods, and for that pur-'pose they are put into a Port, which is afterwards drowned; not-'withstanding the Party used his endeavour, that shall not dis-'charge him, because he having undertaken to do the thing on his 'part, he ought to perform it. 1 *Roll. Abr.* 450. *Placit.* 9.

''Tis found by the Jury that the Master of the Ship departed 'out of Harbour expecting to meet the Convoy, which must be 'to Sail with her, and be Protected by her the rest of her Voy-'age, or otherwise a Convoy will signify very little or nothing.

'Here was a Severence by bad Weather: Now the Ship might 'have come up to Convoy, or that to the Ship; but she did not 'stir out of *Torbay* till the Ship was taken, therefore the Insurers 'being to provide a Convoy, here is a Breach of the Agreement 'on their side, which will hinder them from bringing this Acti-'on, especially since 'tis an entire Agreement, and no precedent 'Condition.

'*Curia.* If the Insurer have acted contrary to the Agreement, the 'Policy fails as much as if there had been a Derivation.

'The Word *depart* is only *terminus à quo*; if the Ship had de-'parted from *London*, and came back again by Fraud, that had 'been no Departure within the intention of this Agreement.

'But upon this Departure (as 'tis found) the Voyage was began 'with Convoy: They were afterwards separated by Stress of 'Weather, and both endeavoured to save themselves, and after-'wards to find out each other; and there being no Fraud in the 'Master, Judgment was given for the Plaintiff, tho' it might 'have been otherwise, if the Convoy had run from the Ship, and 'by that means she had been taken.

CHAP.

CHAP. X.

Containing three ſhort Diſcourſes of Owners and Maſters of Ships; and of Mariners, being a Collection of what is moſt material upon that Subject, in the Treatiſe De Jure Maritimo & Navali, *and ſeveral others; with ſome Alterations and Reflections,* &c.

I Have already had occaſion to take notice of the Diſadvantages this Kingdom now lies under, for want of a certain Method of proceeding in Maritime Affairs, and as often as I have an opportunity of reiterating that Complaint, either by word of Mouth or in Writing, I'll never hold my Tongue or Pen, till I have made other People as ſenſible of the thing as my ſelf.

What a mortifying Conſideration it is to me to think, that of all the Nations in the World, where Trade and Commerce flouriſh, *England* alone, which has been more oblig'd to Traffick than moſt other Countries, ſhou'd labour under that everlaſting Difficulty and Inconveniency, of ruining our Trade, for not knowing how to manage it.

If in *France* a Merchant intends to build or buy a Ship, or to Victual, Man and Sail one, and being ignorant of the Cuſtoms of the Country, wants to be exactly inform'd of the manner in which he is to proceed; 'tis only the trouble of looking into the Ordinance for the Marine, and there in two Minutes he may be thoroughly ſatisfy'd, without the Trouble or Charge of going to Council, to conſult about ſecuring the Title and Property of the Ship, *&c.*

In *England* 'tis quite otherwiſe. We have no certain Method of Proceeding here, and ſcarce any Deed can be ſo valid for transferring the Property of a Ship, or any Part of a Ship, but it may be afterwards call'd in Queſtion, and occaſion more Trouble and Charge than the thing is worth.

Juſt ſo the Caſe is for Mariners Wages, Freight of Ships, and almoſt all other Maritime Affairs; in which 'tis next to impoſſible for a Perſon who has any conſiderable Dealings that way, to avoid frequent Law-Suits, in which the greater part of their Profit is expended, and their time loſt; ſo that upon the whole Matter,

Matter, a Merchant in this Country has little to depend upon but the Honeſty and Integrity of the People he deals withal.

The Conſideration of this has frequently incited me to repreſent the Inconveniencies of that way of Proceeding, which accordingly I am now reſolved to do in the end of this Treatiſe; and mean time, having judg'd it neceſſary to give the World an Account upon what Foot we now are, with Relation to the Affairs of Merchants, Freighters, Owners and Maſters of Ships and Mariners; I ſhall inſert the beſt part of what has been ſaid on that Subject, by the Author of the afore-mention'd Tract *De Jure Maritimo & Navali*; but by the way, ſhall put the Publick in mind that tho' they may ſuffer themſelves in a great Meaſure to be directed thereby; 'tis far from being a poſitive and unalterable Law, by which all Caſes of that Nature are abſolutely to be decided: For that is a thing almoſt unknown in *England*, in Caſes of that Nature, there being little other Rules to be obſerved, but former Precedents in Superior Courts; and theſe too are ſometimes laid aſide. And firſt,

ARTICLE I.

Of the Owners, Part-Owners, and Freighters of Ships.

UPON any Probable Deſign, the major Part of the Owners may, even againſt the Conſent, tho' not without the Privity and Knowledge of the reſt, Freight out their Veſſel to Sea.

If it ſhould ſo fall out, that the major Part in Number proteſt againſt the Voyage, and but one left that is for the Voyage, yet the ſame may be effected by that Party if there be Equality in Partnerſhip.

Owners by Law can no ways be obliged to continue their Paction or Partnerſhips, without ſeparating; but yet if they will ſeparate, the Law Marine requires ſome Conſiderations to be performed before they can ſo do. And therefore, if the Ship be newly built, and has never yet made a Voyage, or is newly bought, ſhe ought to be Subject to one Voyage, upon the common outread and hazzard, before any of the Owners ſhall be allow'd to ſeparate and diſcharge their Parts; but by the Laws of *England*, the Owners may before any ſuch Voyage, ſell or tranſmit their Right.

If

If it falls out that one is ſo obſtinate that his Conſent cannot be had, the Law will enforce him either to hold, or to ſell his Proportion; but if he will ſet no Price, the reſt may rig her out at their own Coſts and Charges, and whatſoever Freight ſhe earns, he is not to have any Share or Benefit in the ſame. But if ſuch Veſſel happens to miſcarry, or to be away, the reſt muſt anſwer him his Part or Proportion in the Veſſel. But if it ſhould fall out, that the major Part of the Owners, in Value, refuſe to ſet out the Veſſel to Sea; there, by reaſon of the Inequality they may not be compelled; but then ſuch Veſſel is to be valued and ſold: The like, whether part of the Owners become deficient or unable to ſet her forth to Sea.

The Maſter of the Veſſel is eligible by the Part-Owners in Proportion, not by the Majority, and he that is moſt able, is to be preferred. The Cuſtom of the latter Ages has been ſuch, that few have gone out in that Condition, but thoſe that have commonly had Shares or Parts in the ſame Veſſel. In the preferring therefore of a Maſter, his Ability and Honeſty are to be conſidered, ſince on him reſts the Charge, not only of the Veſſel, but of the Lading; their very Actions ſubjecting the Owners to anſwer for all Damage that ſhall be done, or occaſioned by him or his Mariners, be it in the Port, or at Sea, to the Lading, or Goods of the Merchants or Laders; and they are made liable, as well by the Common Law of *England*, as the Law Marine.

If the Maſter commits Offences, either negligently or wilfully, he ſhall be reſponſible to his Owners for the Reparation of Damages, nor are they bound to joyn as the Mariners. So likewiſe if the Ship has earned Freight, and part of them receive their Parts, the reſt may bring their Action for their Share, without joyning with the others.

If a Ship be broken up, or taken in pieces, with an intent to convert the ſame to other Uſes; if afterwards upon Advice, or change of Mind, ſhe be rebuilt with the ſame Materials, yet this is now another, and not the ſame Ship, eſpecially if the Keel be ript up or changed, and the whole Ship be once taken aſunder and rebuilt; there determines the Partnerſhips as to the Ship.

But if a Ship be ript up in parts, and taken aſunder in parts, and repaired in parts, yet ſhe remains ſtill the ſame Veſſel, and not another; nay, though ſhe hath been ſo often repaired, that there remains not one Stick of the Original Fabrick.

If a Man ſhall repair his Ship with Plank or other Materials belonging to another, yet the Ship maintains and keeps her firſt Owners.

But

But if a Man ſhall take Plank and Materials belonging to another, and prepared for the uſe of Shipping, and with them build a Ship, the Property of the Veſſel follows the Owners of the Materials, and not the Builder.

But if a Man cuts down the Trees of another, or takes Timber or Planks prepared for the Erecting or Repairing of a dwelling Houſe; nay, though ſome of them are for Shipping, and Builds a Ship, the Property follows, not the Owners, but the Builders.

If a Ship be ſold together, with her Tackle, Furniture, Apparel, and all other her Inſtruments thereunto belonging; yet by thoſe Words the Ship's Boat is not conveyed, but that remains ſtill in the Owners; ſo it is if the Ship be freighted out, and afterwards at Sea ſhe commits Piracy; the Ship is forfeited, but the Boat remains ſtill to the Owners.

And tho' Ballaſt is generally uſed in Shiping by thoſe Ships that are freighted outwards, in order to the bringing home of Goods, yet is not the ſame any part of the Furniture of the Veſſel, and ſo it was adjudged in debt on Bond. The Condition was, that whereas the Plaintiff had bought of the Defendant a Ship, if the Plaintiff ſhall enjoy the ſaid Ship with all the Furniture belonging to the ſame, without being diſturbed, for the Ship, or any Furniture appertaining to it, That then, *&c.* and the Caſe fell out to be, That after the Sale of a Ship, a Stranger ſued the Plaintiff for certain Monies due for Ballaſt, bought by the Defendant for the ſame Ship, in which Suit he obtain'd Sentence; upon which the Ship was ſeized. The Queſtion was, if Ballaſt be Furniture to a Ship or not? And it was reſolved that it was not; for tho' it may be as neceſſary as Sails, yet 'tis not always ſo; for ſometimes they Sail without Ballaſt, for the Merchandiſe it ſelf may be ſufficient to anſwer that purpoſe.

If a Ship commits a Piracy, by reaſon of which ſhe becomes forfeited; if before Seizure ſhe be *Bona fide* ſold, the Property ſhall not be queſtioned, nor the Owners diveſted of the ſame.

If a Maſter ſhall take up Monies to Mend or Victual his Ship where there is no occaſion, (though generally the Owners ſhall anſwer the Fact of the Maſter) yet here they ſhall not, but only the Maſter. But if there were cauſe of mending the Ship, tho' the Maſter ſpends the Money another way, yet the Owners and Ship become liable to the Satisfaction of the Creditor; for it were very unreaſonable that the Creditor ſhould be bound to take upon him the Care of repairing the Ship, and ſupply the Owners room, which muſt be ſo, if it ſhould be neceſſary for him, that the Money be laid out upon the Ship; ſo on the other hand,

hand, it ſtands with reaſon that he be ſure that he lends his Money on ſuch an occaſion, as whereby the Maſter's Fact may oblige the Owners, which he cannot do otherwiſe, unleſs he knows that the Money borrowed was neceſſary for the Repair of the Ship; and therefore if the Ship wanted ſome Repairs, and a far greater, and more extravagant Sum was lent than was needful, the Owners ſhall not be liable for the whole.

If a Man gets Poſſeſſion of a Ship, having no Title to the ſame, by the Law Marine, he ſhall anſwer ſuch Damage as the Ship in all probability might have earned; and the Reaſon of that is, becauſe the only end of Shipping, is the imploymenr thereof; but if a Warrant be directed out of the Admiralty to an Officer to Arreſt ſuch a Ship, and *Calvo cuſtodire*, who by force of the ſame, enters into the ſame Ship, though the Warrant does not mention that the Officer ſhould carry away the Sails of the ſame Ship, yet he may Juſtifie the taking the ſame, for that he cannot *Salvo cuſtodire* the ſame Ship, unleſs he carries away the Sails.

If a Ship be Freighted out, and accordingly receives in her Lading purſuant to Agreement, and afterwards an Embargo happens, and the Lading is taken as forfeited, yet the Owners ſhall notwithſtanding receive Freight, for here is no fault in them, but only in the Merchant.

In *Aqua dulci* a Ship may become a Deodand, but in the Sea, or in *Aqua ſalſa*, being an Arm of the Sea, though it be in the Body of the Country, yet there can be no Deodand of the Ship, or any part of it, though any Body be drowned out of it, or otherwiſe come by their Death in the Ship, becauſe on ſuch Waters, Ships and other Veſſels are ſubject to ſuch Dangers upon the raging Waves, in reſpect of Wind and Tempeſt; and this Diverſity all our ancient Lawyers do agree in; and it does more eſpecially appear in the Parliament-Rolls, where upon a Petition, it was deſired, That if it ſhould happen that any Man or Boy ſhould be drowned by a fall out of the Ship, Boat or Veſſel, they ſhould be Deodands: Whereupon the King, with the Advice of his Judges, and Council learned in the Laws, made anſwer; that the Ship, Boat or Veſſel, being upon the Sea, ſhould be adjudged no Deodand, but being upon a freſh River it ſhould be a Deodand, but the King will ſhew Favour. There are abundance of other Petitions upon the like occaſion, in the Records of Parliament.

A Ship lying at *Rotherhithe*, in the County of *Kent*, near the Shore, to be careen'd and make clean; it happened that one of the Shipwrights being at Work under her at low Water, the Veſ-

ſel (then leaning aſide) fortuned to turn over the contrary ſide, by means of which the Shipwright was killed: Upon a Tryal at Bar, where the Queſtion was; Whether this Deodand did belong to the Earl of *Salisbury*, who was Lord of the Mannor, lying contiguous to the Place where the Man was ſlain, or to the Almoner as a Matter not granted out of the Crown; in that Caſe it was reſolved, that the Ship was a Deodand, and the Jury thereupon found a Verdict for the Lord of *Salisbury*, that the ſame did belong to his Mannor.

Thus Men for their Neceſſity and Safety, having from hollow Trees, nay Reeds, Twigs and Leather, (for ſuch were the rude beginnings of thoſe ſtupendious Things we now admire) advanced the Art to that decree, as to render it the moſt uſeful Thing extant; and as the Mathematicks, Aſtronomy, and other Sciences have added to its Security; ſo having ſucceding Ages from time to time, provided Privileges and Laws, by which it hath always been regulated and govern'd; the which upon all occaſions, and in all Courts have generally had as genuine a Conſtruction as might be to the Marine Cuſtoms; and therefore at this day, if a Ship be taken away, or the Owners diſpoſſeſt, they may maintain an Action of Trover and Converſion for an eight or ſixteenth Part of the ſame, as well by the Common Laws of this Kingdom, as the Law Marine, and they need not joyn with the reſt of their Owners.

This is what that Author has delivered to us concerning Owners of Ships, and the Building, Victualling and Providing thereof, which being according to the common Practice of the Country, I thought fit to inſert it in this part of my Diſcourſe, in which I am reſolved to omit nothing that may tend to the clearing up the Matter of which I Treat; and therefore I ſhall likewiſe inſert what he further ſays of Maſters of Ships and Mariners, *&c.* to the following purpoſe.

Article II.

Of Maſters of Ships, and their Duty and Privileges.

A Maſter of a Ship is no more than one, who for his Knowledge in Navigation, Fidelity and Diſcretion, hath the Government of the Ship committed to his Care and Management, and by the Common Law, by which Properties are to be guided, he hath no Property either general or ſpecial, by the conſtituting of him a Maſter; yet the Law looks upon him as an Officer, who muſt render and give an Account for the whole Charge, when once committed to his Care and Cuſtody; and upon Failure to render Satisfaction; and thereof if Misfortunes happen, if they be either through Negligence, Wilfulneſs, or Ignorance of himſelf, or his Mariners, he muſt be reſponſible.

If the Fault be committed in any Port, Haven, River or Creek, or any other Place which is *infra Corpus Comitatûs*, the Common Law ſhall have Juriſdiction to anſwer the Party damnified, and not the Admiralty; but if the ſame be committed *ſuper Altum mare*, the Admiralty ſhall have Juriſdiction of the ſame; yet if it be on a Place where there is *Diviſum Imperium*, then according to the Flux or Reflux the Admiralty may challenge; the other of common Right belonging to the Common Law.

And therefore ſo ſoon as any Merchandiſe, or Commodities are put aboard a Ship, whether ſhe be riding in *Port*, *Haven*, or any other Part of the Seas, he that is *Exercitor Navis*, or Maſter of the Ship, is chargeable therewith; and if the ſame be there loſt or purloyned, or ſuſtain any Damage, Hurt or Loſs, whether in the Haven or Port, or upon the Seas, after ſhe is in her Voyage; whether it be by Mariners, or by any other through their Permiſſion, he that is *Exercitor Navis* muſt anſwer the Damage; for that the very Lading of the Goods aboard the Ship does ſubject the Maſter to anſwer the ſame; and with this agrees the Common Law, where it was adjudged, that Goods being ſent aboard a Ship, and the Man having ſigned his Bills of Lading for the ſame, the Goods were ſtowed, and in the Night, divers Perſons, under the pretence that they were Preſs-Maſters, entered the Ship and rob'd her of thoſe Goods: The Merchant brought an Action at the Common Law againſt the Maſter, and the Queſtion was, whether he ſhould anſwer for the ſame? For it was alleged on his part, that there was no Default or Negligence in him, for he had a ſufficient Guard, the Goods were all lock'd up under

Hatches, the Thieves came as Preſs-Maſters, and by Force rob'd the Ship, and that the ſame was *vis Major*, and that he could not have prevented the ſame. And laſtly, That though he was called Maſter, or *Exercitor Navis*, yet he had no ſhare in the Ship. And was but in the nature of a Servant acting for a Salary. But notwithſtanding it was adjudged for the Plaintiff; for at his Peril he muſt ſee that all things be forth coming that are delivered to him, let what Accident ſoever happen; (the Act of God, or an Enemy, Perils and Dangers of the Seas only excepted) but for Fire, Thieves and the like, he muſt anſwer, and is in the nature of a common Carrier; and that tho' he receives a Salary, yet he is a known and Publick Officer, and one that the Laws look upon to anſwer; that the Plaintiff hath his Election to charge either Maſter or Owners, or both at his Pleaſure, but can have but one Satisfaction.

If a Maſter ſhall receive Goods at the Wharf or Key, or ſend his Boat for the ſame, and they happen to be loſt, he ſhall likewiſe anſwer by the Marine Law and the Common Law.

If Goods be laden aboard, and after an Embargo or Reſtraint from the Prince or State comes forth, and then he breaks Ground, or endeavours to ſail away; if any Damage accrues, he muſt be reſponſible for the ſame. The Reaſon is, becauſe his Freight is due and muſt be paid, nay although the very Goods be ſeized as Contraband.

He muſt not ſail in tempeſtuous Weather, nor put forth to Sea without firſt having conſulted with his Company; nor muſt he ſtay in Port or Harbour without juſt Cauſe, when a fair Wind invites his Departure.

He muſt not overcharge, or laid his Ship above the Birth-Mark, or take into his Ship any Perſons of an obſcure and unknown Condition, without Letters of ſafe Conduct.

Nor ought he to lade any of his Merchants Goods aboard any the King's Enemies Ships (admitting his own Veſſel leaky or diſabled) without Letters of ſafe Conduct, otherwiſe the ſame may be made Prize, and he muſt anſwer the Damage that follows the Action.

Nor ſhall he come or ſneak into the Creeks or other Places, when laden homewards, but into the King's great Ports (unleſs he be driven in by Tempeſt) for otherwiſe he forfeits to the King all his Merchandiſe, and therefore muſt anſwer.

Nor ought he to ſhip any Merchandiſe, but only at the publick Ports and Keys.

He

He muſt not lade any prohibited or unlawful Goods. whereby the whole Cargo may be in Danger of Confiſcation, or at leaſt ſubject to Seizure or Surreption,

He may not ſet ſail without able and ſufficient Mariners both for Quality and Number.

He may not uſe any unlawful Colours, Enſigns, Pendants, Jacks or Flags, whereby his Ship or Lading may incur a Seizure, or the Cargo receive any Detriment or Damage.

He muſt not ſuffer the Lading to be ſtolen, or imbezeled; if the ſame be, he muſt be reſponſible; unleſs it be where there is *vis Major*, as if he be aſſaulted at Sea, either by Enemies, Ships of Repriſal, or Pirates; there if no Fault nor Negligence was in him, but that he performed the part of an Honeſt, Faithful, and Valiant Man, he ſhall be excuſed: Yet it hath been adjudged, that if a Merchant Ship lies in a Port or Haven, and a Pirate, Sea-Rover, or other Thieves enter her, and over-power her Men, and then rob her, the Maſter muſt be reſponſible; but if an Enemy enter and commit the Depredation, there the Maſter is excuſed.

He muſt not carry any Counterfeit Cocquets, or other fictitious and colourable Ship-Papers, to involve the Goods of the Innocent with the Nocent.

Nor muſt he refuſe the Payment of the juſt and ordinary Duties and Port-charges, Cuſtoms and Impoſts, to the hazzard of any part of his Lading; yet if he offers that which is juſt, then he is excuſed.

He muſt not ſet ſail with inſufficient Rigging or Tackle, or with other or fewer Cables than is uſual and requiſite, reſpect being hard to the Burthen of the Veſſel: And if any Damage happen by the Delivery of the Goods into the Lighter, as that the Ropes break, and the like, there he muſt anſwer; but if the Lighter comes to the Wharf or Key, and then in taking up the Goods, the Rope breaks, the Maſter is excuſed, and the Wharfinger is liable.

If fine Goods, or the like, are put into a cloſe Lighter, and to be Convoyed from the Ship to the Key, it is uſual there, that the Maſter ſends a competent Number of his Mariners to look to the Merchandiſe; if then any of the Goods are loſt, and imbezled, the Maſter is reſponſible, and not the Wharfinger; but if ſuch Goods are to be ſent aboard a Ship, where the Wharfinger at his Peril muſt take care the ſame be preſerved.

After his Arrival at Port, he ought to ſee the Ship be well Moared and Anchored, and after reladed, not to depart or ſet ſail till he hath been cleared; for if any Damage happens, by reaſon

reaſon of any Fault or Negligence in him or his Mariners, whereby the Merchant or the Lading receives any Detriment, he muſt anſwer the ſame.

And as the Law aſcribes theſe things, and many more to him as Faults, when committed by him or his Mariners in Ports; ſo there are other things which the Law looks upon to be as Faults in him in his Voyage, when done.

As if he deviates in his Courſe without juſt Cauſe, or ſteers a Dangerous and unuſual Way, when he may have a more ſecure Paſſage, though to avoid illegal Impoſitions, he may ſomewhat change his Courſe; or may he ſail by Places infeſted with Pirates, Enemies, or other Places notoriouſly known to be unſafe, nor engage his Veſſel amongſt Rocks or remarkable Sands, not being thereto neceſſitated by violence of Wind and Weather, or deluded by falſe Lights.

By the Marine Law, he that will charge a Maſter with a Fault, as in relation to his Duty, muſt not think that a general Charge is ſufficient in Law, but he ought to aſſign and ſpecifie the very Fault wherewith he is ſo charged.

So that he that will infer, That ſuch or ſuch a ſad Diſaſter hath happen'd, or been occaſion'd by reaſon of ſome Fault in the Mariners, muſt not only prove the Fault it ſelf, but muſt alſo prove that that Fault did diſpoſe to ſuch a ſad Event; or that ſuch a Misfortune could nor have happened without ſuch a Fault precedent.

When Voyages are undertaken, the Maſter is put in by the Owners, and they ought to make good the Maſters Fact and Deed; and therefore as the whole Care and Charge of Ship and Goods are committed to the Maſter, it is the Prudence of the Owners to be careful who they will admit Commander of their Ship, ſince their Action ſubjects them to anſwer the Damage, or whatever other Act he ſhall do in reference to his Imployment; and therefore he can freight out the Veſſel, take in Goods, and Paſſengers, mend and furniſh the Ship; and to that Effect, if need be, in a ſtrange Country, he may borrow Money with Advice of his Mariners, upon ſome of the Tackle, or ſell ſome of the Merchandiſe. If part of the Goods, ſhall be ſold in ſuch Neceſſity, the higheſt Price that the Remainder are ſold for, muſt be anſwered, and paid to the Merchant; after which the Merchant muſt pay for the Freight of thoſe Goods, as well as for the Remainder, *Leg. Oleron.* 1. But if the Ship in the Voyage happens to be caſt away, then only ſhall be tendered the Price that the Goods were bought for.

By

By the Common Law the Master of a Ship could not impawn the Ship or Goods; for there is no Property either General or special in him, nor is such Power given unto him by the constituting him a Master.

Yet, the Common Law hath held the Law of *Oleron* reasonable, that if a Ship be at Sea and takes Leak, or otherwise want Victual or other Necessaries, whereby either herself is in Danger, or the Voyage may be defeated; in such Case of Necessity the Master may impawn for Money, or other things, to relieve such Extremities by imploying the same to that end; and therefore he being the Person trusted with the Ship and Voyage, may reasonably be thought to have that Power given to him implicitly, rather than to see the whole lost.

But a Master for any Debt of his own cannot impawn, or hypotheate, the Ship, *&c.* for the same is no ways liable, but in Cases of Necessity for the Relief, and compleating of the Voyage.

Nor can he sell or dispose of the same without an Authority or Licence from the Owners; and when he does impawn or hypotheate the Vessel or Furniture, he ought to have the Advice and Consent of his Mariners.

And when the Ship is so engaged, she is for ever obliged, and the Owners are thereby excluded till Redemption.

But in Regard Masters might not be tempted to engage the Owners, or trouble them with such sort of Obligation, but where there is very apparent Cause and Necessity, they seldom suffer any to go Shipper or Master, but he that hath a Share or Part in her; so that if Monies or Provisions be taken up, he must bear his equal Share and Proportion with the Rest.

Nor can the Master on every Case of Necessity impawn the Vessel or Furniture; for if she be freighted, and he and the Owners are to join in the laying in of the Provision for the Voyage, and perhaps he wants Money, (a great Sign of Necessity) yet can he not impawn the Vessel or Furniture, any other or further than for his own Part or Share in her, which he may transfer and grant as a Man may do an eighth or fifth in Lands or Houses: But such Obligation of the Vessel must be in foreign Parts or Places, where the Calamity or Necessity is universal on the Vessel that will Oblige all the Owners.

If the Vessel happens afterwards to be wreckt or cast away, and the Mariners by there great Pains and Care, recover some of the Ruins and Lading, the Master in that Case may pledge the same; the product of which he may distribute amongst his distressed Mariners, in order to the carrying them home to their own Country: But if the Mariners have no ways contributed

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to the Salvage, then their Reward is ſunk and loſt with the Veſſel. And if there be any conſiderable part of the Lading preſerved, he ought not to diſmiſs his Mariners without Advice from the Laders or Freighters; for otherwiſe he may be made liable for Damage.

If Merchants freight a Veſſel at their own Charges, and ſet her to Sea, and ſhe happens afterwards to be weather-bound, the Maſter may impawn either Ship or Lading at his pleaſure, or at leaſt ſuch as he can moſt conveniently raiſe Monies on, rather than ſee the whole Voyage loſt. And if he cannot pawn the Lading, he may ſell the ſame, that is, ſo much as is neceſſary; in all which Caſes his Act obliges.

However Orders and Inſtructions are as carefully to be look'd upon and followed as the *Magnet*.

He is not to import into, or export out of any of the *Engliſh* Plantations in *Aſia*, *Africa*, or *America*, but in *Engliſh* or *Iriſh* Veſſels, or of Veſſels built and belonging to that Country, *Iſland*, Plantation, or Territory; the Maſter and 3 fourths of the Mariners to be *Engliſh*, upon Forfeiture of Ship and Goods.

And if otherwiſe, they are to be look'd upon as Prize, and may ſeiz'd by any of the King's Officers and Commanders, and be divided as Prizes, according to the Orders and Rules of the Sea.

All Goods of the Growth of his Majeſty's Plantations are not to be imported into *England*, *Ireland*, or *Wales*, Iſlands of *Jerſey* or *Guernſey*, but in ſuch Veſſels as truly belong to Owners that are of *England*, *Ireland*, *Wales*, *Jerſey* or *Guernſey*, and 3 fourths at leaſt of the Mariners are to be *Engliſh*, upon Forfeiture of Ship and Goods.

The Goods and Wares of thoſe Plantations, brought in ſuch manner as aforeſaid, muſt be brought from thoſe very Countries of their ſeveral Productions and Growths, or from the Ports where they are uſually Shipped off, on Forfeiture of Ship and Goods.

No Ship to go from Port to Port in *England*, *Ireland*, *Wales*, *Jerſey*, or *Guernſey*, or *Berwick*, unleſs the Owners are Denizens or Naturalized, and the Maſter and 3 fourths to be *Engliſh*.

All Owners muſt ſwear that their Ships or Veſſels are their own proper Ships and Veſſels, and that no Foreigner hath any Share or Part in them, and muſt enter the ſame; and that they were bought for a valuable conſideration, *Bonâ fide*.

Nor to bring in any Goods from any Place, but what are of the Growth of that very Country, or thoſe places which uſu-

ally

ally are for the firſt Shipping, on pain of Forfeiture of their Veſſel and Furniture.

This doth not extend ſo far, but that Maſters may take in Goods in any part of the *Levant* or *Streights*, although they are not of the very Growth of the Place, ſo that they be imported in *Engliſh* Ships, 3 fourths *Engliſh* Mariners: So likewiſe thoſe Ships that are for *India* in any of thoſe Seas to the Soutward and Eaſtward of *Capo bona Speranza*, although the Ports are not the Places of their very Growth.

Any People of *England* may import (the Maſter and Mariners 3 fourths *Engliſh*) any Goods or Wares from *Spain*, *Portugal*, the *Azores*, *Madera*, or *Canary* Iſlands, nay in Ships that are not *Engliſh* built, Bullion may be imported; ſo likewiſe in thoſe that are taken by way of Prize, *bona Fide*.

But Sugars, Tobacco, Cottons, Ginger, Indigoes, Fuſtick, or any other Dying Wood of the Growth of her Majeſty's Plantations, to be ſhipped, carried, or convey'd from any of the *Engliſh* Plantations, are to be carried to no Place in the World, but are to come directly for *England*, *Ireland*, *Wales*, or *Berwick*, upon pain of Forfeiture of Ship and Goods; and the Maſter is to give Bond with one Security in 1000 *l.* if the Ship be under the Burden of 100 Tuns, and 2000 *l.* if above; that upon Lading he brings his Ship directly into *England*, *Ireland*, *Wales*, or *Berwick* (the Danger of the Seas excepted); ſo likewiſe they are to do the ſame for the Ships that ſhall go from Plantations, before the Governour of the Plantations, upon Forfeiture of the Ship and Goods.

When the Maſter ſhall arrive at *Graveſend*, he ſhall not be above three Days coming from thence to the Place of Diſcharge; nor is he to touch at any Key or Wharf, till he comes to *Cheſter*'s Key, unleſs hindred by contrary Winds, or Draught of Water, or other juſt Impediment to be allow'd by the Officers; And likewiſe he or his Purſer are there to make Oath of the Burden, Contents and Lading of his Ship, and of the Mark, Number, Contents and Qualities of every Parcel of Goods therein laden, to the beſt of his Knowledge; alſo where, and in what Port ſhe took in her Lading, and in what Country built, and how Manned, who was Maſter during the Voyage, and who the Owners; and in Out-Ports muſt come up to the Place of Unlading, as the Condition of the Port requires, and make Entries, on pain of One Hundred Pound.

Nor is ſuch Maſter to lade aboard any Goods outwards to any Place whatſoever, without entring the Ship at the Cuſtom-

Houſe, giving an Account of her Captain, Maſter, Burden, Guns, Ammunition, and to what Place ſhe intends; and before Departure, to bring in a Note under his Hand of every Merchant that ſhall have laded aboard any Goods, and be ſworn as to the ſame, on pain of 100 *l.*

Note, There is a Liſt of all Foreign-built Ships in the Exchequer; and that no Foreign Ship, not built in any of his Majeſty's Dominions of *Aſia*, *Africa*, and *America*, after *Octob.* 1662. and expreſly named in the Liſt, ſhall enjoy the Privileges of a Ship belonging to *England* or *Ireland*, altho' owned and manned by *Engliſh*, except only ſuch as are taken by way of Reprizal, and Condemnation made in the Admiralty as lawful Prize.

But from the *Netherlands* or *Germany* there may not be imported any ſort of Wines, (other than *Rheniſh*) Spicery, Grocery, Tobacco, Pot-aſhes, Pitch, Tar, Salt, Roſin, Deal-boards, hard Timber, Oil or Olives, in any manner of Ships whatſoever.

It does not ſeem amiſs that this latter Part, which is abridged in reference to Matters Publick, ſhould be inſerted, for that ſometimes it may happen that an honeſt and well-meaning Maſter or Shipper might innocently involve and hazard the Loſs of his Ship, by committing Acts againſt Laws poſitive and prohibitory; and tho' Maſters and Mariners, *qua tales*, be not ſo exquiſite as to know all that does belong to their Duty, or at leaſt that which the Law lays incumbent on their Shoulders; yet for that moſt of them have ſome ſmall glimmerings of the ſame, ſuch Hints in matters publick as well as private, may not only be of ſome Advantage to them, but alſo to Merchants, who always upon the Miſcarriages of the Maſters, prove the greateſt Sufferers, the Offenders for the moſt part proving not ſufficiently Solvent.

It is to be obſerved, that by an Act paſs'd in the laſt Seſſions of the laſt Parliament, Engliſh *Ships are allowed to ſail with the Maſter and one half (inſtead of three Fourths) of the Mariners* Engliſh, *during the preſent War, and no longer.*

ARTI-

ARTICLE III.

Of Mariners.

THE Perſons ordinary for ſailing in Ships, have divers Denominations: The firſt, which is the Maſter, is known to us and by moſt Nations, both now and of old, and eſpecially by the *Roman* Laws is termed *Navicularius*, or *Magiſter*, or *Exercitor Navis*, in *Engliſh* render'd *MASTER*; in the *Teutonick*. *SKIPPER*; by the *Grecians*, *NAVARCHUS* or *NAUCLERUS*; by the *Italians*, *PATRONO*. But this is only to thoſe Veſſels that are Ships of Burthen and Carriage: For in Ships of War the Principal Officer is commonly called *Commander* or *Captain*. The next in order of Office to the Maſter, is he who directs the Ship in the Courſe of her Voyage; by the *French* called *PILOTE*, by the *Engliſh PILOT*, and by the *Flemmings STEERSMAN*, by the *Romans GUBERNATOR*, by the *Italians NOCHIERO*, *PILLOTTO*, and *NAVARCHUS*; and the third is eſteem'd the Maſter's Mate or Companion, eſpecially if the Maſter be Steerſman himſelf; of old by the *Grecians* and *Romans* called *PRORETA*; his Charge is to command all before the Maſt.

His Succeſſor in order, is the Carpenter or Shipwright, by theſe two Nations of old, called *Naupegus* and *Calaphates*. From the Loyns of one of that Rank, ſprang that great Emperour *Michael*, ſirnamed *Calaphates*, who denied not to own the Quality of his Father among his Regal Titles. The very Name *Calaphates*, the *Venetians* and moſt of the *Italians* ſtill uſe to this day.

The next who ſucceeds in order, is he who bears the Charge of the Ship's Boat, by the *Italians* called *Brachière*, and by the *Grecians* and *Romans*, *Carabita*, from *Carabus*, which denotes the Boat of a Ship.

The ſixth in order, eſpecially in Ships of Burden, is the *Clerk* or *Purſer*, by the *Italians* called *Scrivano*, whoſe Duty is the Regiſtring and keeping the Accounts of all receiv'd in, or deliver'd out of the Ship; for all other Goods that are not by him entred, or taken into Charge, if they happen to be caſt over-board in a Storm, or are ſtollen or imbezzled, the Maſter anſwers them not, there being no Obligation on him by Law for the ſame; his Duty is to unlade by Day, not Night.

The Seventh is a moſt neceſſary Officer, called the *Cook.*

The Eighth is the Ship's Boy, who keeps her continually in Harbours, called of old by the *Grecians, Namphylakes*, by the *Italians, Guardino*: Theſe Perſons are diſtinct in Offices and Names, and are likewiſe diſtinguiſhed in Hires and Wages. The reſt of the Crew are under the common Name of *Mariners*, by the *Romans* called *Nautæ*; but the *Tarpaullins*, or thoſe Youths or Boys that are Apprentices, obliged to the moſt ſervile Duties in the Ship, were of old called *Meſonautæ.*

The Maſter hath the Supreme Rule on Ship-board, and by that means his Power and Authority is by Law much countenanced, eſpecially in the keeping of his Crew in Peace, ſo long as they eat his Bread; and if a Mariner ſhall happen to be bruiſed or hurt in doing his Duty and Service, the Maſter is to take care that he be carefully look'd after, in order to the procuring his Recovery; and if it be occaſion'd by the Miſcarriage of another on Ship-board, he may refund the Damage out of his Wages, but ſtill remembring who gave the Aſſault.

If it happens that a Maſter commands his Boat to be mann'd out, and it ſo falls out that the ſame is out of Order, the Accoutrements being inſufficient; if the Mariners happen to be drowned, the Maſter is to repay by the Law Marine, one whole Year's Hire to the Heirs of the Drowned: Therefore Maſters ought carefully to view, and ſee that the Boat be fit for Men to truſt their Lives in upon his Command.

If a Mariner ſhall commit a Fault, and the Maſter ſhall lift up the Towel three times befor any Mariner, and he ſhall not ſubmit, the Maſter at the next Place of Land may diſcharge him; and if he refuſes to go aſhore, he ſhall loſe half his Wages, and all his Goods within the Ship. If the Mariner ſhall ſubmit, and the Maſter will not receive him, he ſhall have his full Wages: Or if the Mariner ſhall depart the Ship on the Maſter's Command, and the Maſter happens not to take another; if any Damage happens to Ship or Goods, the Maſter muſt anſwer.

Mariners muſt help one another at the Sea and in Port; if any refuſe, upon the Oaths of his Fellows, he loſeth his Wages. None of the Crew muſt, or ought to leave the Ship without Leave of the Maſter, when he comes to a Port, or rides at Anchor, but always conſtantly to wait upon her till they are diſcharged, or have Leave at leaſt, and one half to be left on Ship-board.

A Mariner may not carry out of the Ship above one Meal's Meat, but Drink, not a Drop; and when on Ship-board, ought not there to be arreſteſt for Debt, but only ſo much of his Wages

ges in the Hands of the Maſter attached: Yet this is doubted, if it be not a ſworn Debt, that is, a Judgment or Sentence, or a Penalty to the King.

They ought not to depart from on Ship-board when once admitted into their full Pay, (which is always when they break Ground) without Licence of the Maſter; and before they may ſo do, they are to leave a ſufficient Number to guard the Ship and Decks,

If the Ship breaks Ground and ſets Sail, if after ſhe arrives at her deſired Port, their full Pay continues till ſhe returns; nor may they in any wiſe depart from on Ship-board without Leave or Licence of the Maſter; if they do, and any Diſaſter happens, they muſt anſwer: Yet at ſuch Port if the Veſſel be well moared and anchor'd with two Cables, they may go without Leave: So as they leave a ſufficient Number behind them to guard the Decks: But then, their Return muſt be in due Seaſon; for if they make an unreaſonable Stay, they muſt make Satisfaction.

If Mariners get drunk and wound one another, they are not to be cured at the Charge of the Maſter of the Ship; for ſuch Accidents are not done in the Service of the Ship: But if any of the Mariners be any ways wounded, or fall ill in the Service of the Ship, he is to be provided for at the Charges of the Ship; and if he be ſo ill as not fit to travel, he is to be left aſhore, and Care to be taken that he hath all Accommodations of Humanity adminiſtred to him: And if the Ship is ready for her Departure, ſhe is not to ſtay for him; if he recover, he is to have his full Wages, deducting the Maſter's Charges laid out for his account.

In caſe of a Storm, if Goods are caſt over-board for lightning the Ship, the Oaths of the Mariners, ſwearing that it was done for the Preſervation of the Veſſel and the reſt of the Lading, ſhall diſcharge the Maſter.

So Goods damnified at Sea, are clear'd by the Oath of the Maſters and Mariners, by the Laws of *Oleron*.

To aſſault the Maſter on Ship-board, is a Crime that ſubjects the Mariner's Hand to be cut off, unleſs he redeems it at 5 *Solz*.

If a Ship happens to be ſeized for Debt, or otherwiſe to become forfeited, the Mariners muſt receive Wages, unleſs in ſome Caſes, where the Wages are forfeited as well as the Ship; as if they have Letters of Marque, and inſtead of that they commit Piracy; by reaſon of which there enſues a Forfeiture of all: But Lading of prohibited Goods aboard a Ship, as Wood, and the like, tho' it ſubjects the Veſſel to a Forfeiture, yet it deprives not the Mariner of his Wages; for the Mariners having honeſtly perform'd their Parts, the Ship is tacitely obliged for their Wages: But if the

the Ship periſhes at Sea, they loſe their Wages, and the Owners their Freight. And this being the Marine Cuſtom, is allow'd by the Common Law as well as the Civil Law.

The Courts at *Weſtminſter* have been very favourable to Mariners, in order to the ſuing for Wages; for at the Common Law they cannot joyn, but muſt ſue all diſtinct and apart for their Wages.

Yet in the Admiralty they may all joyn, and the Courts of *Weſtminſter* will not grant a Prohibition: And ſo it was ruled, where one *Jones* a Maſter of a Ship was ſentenc'd in the Admiralty for Wages at the Suit of poor Mariners; a Prohibition being prayed upon a Suggeſtion that the Contract was made at Land, and not *ſuper altum mare*; the Court denied it, for that he came too late, Sentence being given below againſt him: Yet if the Mariners had only Libell'd, and there had been no Sentence, and the Defendant had pray'd a Prohibition, as above, the Court would have denied it. This has been, and is uſuall done.

But the Court will be very well informed that the Libel is for the Mariners Wages; for ſome who work Carpenters Work, and ſuch like Labour aboard a Ship in a Haven or Port within the Realm, (which is *infra Corpus Comitatus*, (notwithſtanding thoſe great and ingenious Objections againſt it) and muſt be tried by the Common Law, and not elſewhere) will libel under that Cloak for Mariners Wages. But the Court in that Caſe will grant a Prohibition. And ſo it was done in the like Caſe.

But if the Ship rides at Anchor in the Sea, and the Maſter ſends his Boat aſhoar for Victuals or other Proviſions for the Ship, and accordingly the Providore or Slop-ſeller does bring Victuals and Proviſions aboard; in that Caſe, if the Contract be made there, it muſt be ſued for in the Admiralty: But if the Goods are by the Purſer or Mariners contracted for at Land, they muſt ſue at Common Law.

If Goods are ſo imbezled, or ſo damnified that the Ship's Crew muſt anſwer, the Owners and Maſter muſt deduct the ſame out of their Freight to the Merchants, and the Maſter out of the Wages of the Mariners; for though Freight is the Mother of Wages, yet is it the very Father of Damage: For before the Mariner can claim his Wages out of what the Ship has earn'd, the Ship muſt be acquitted from the Damage that the Merchant hath ſuſtained by the Negligence or Fault of the Mariners: And the Reaſon is, for that as the Goods are oblig'd to anſwer the Freight, ſo the Freight and Ship is tacitely obliged to clear the Damage; which being done, the Mariners are then let into their Wages.

If a Mariner be hired and deſerts the Service before the Voyage ended, by the Law Marine he loſes his Wages: And the ſame Cuſtom at Common Law pleaded, it hath been conceived will bar him.

If a Mariner ſhall commit any wilful or negligent Fault, by reaſon of which the Maſter, Owners, or the Ship anſwers Damage to the Merchant, an Action lies well againſt him.

If a Mariner takes up Monies or Cloaths, and the ſame is entred into the Purſer's Book, by the Cuſtom of the Marine it is a Diſcompt or a Receipt of ſo much of their Wages as the ſame amounts to: And in an Action brought by them for their Wages the ſame ſhall be allowed; and is not accounted mutual, the one to bring his Action for the Cloaths, and the other for his Wages.

A Maſter of a Ship may give moderate and due Correction to his Mariners, and if they bring an Action againſt him, he may juſtifie the ſame at the Common Law; and by the Law of *Oleron*, if a Mariner ſhall aſſault the Maſter, he is to pay 5 *Solz*, or loſe his Hand: as above.

Mariners after they have unladed the Ship, if they demand their Wages, and there be any Suſpicion of their Departure, the Maſter may detain a reaſonable Proportion of the ſame till they bring back the Ship, or give Security to ſerve out the whole Voyage.

Barratry of the Mariners is a Diſeaſe ſo Epidemical on Ship-board, that 'tis very rare for a Maſter, be his Induſtry never ſo great, to prevent it: A Span of Villany on Ship-board ſoon ſpreads out to a Cloud, for no other Cauſe but of that circular Encouragement that one knaviſh Mariner gives another.

However, the Law does in ſuch Caſes impute Offences and Faults committed by them, to be Negligences in the Maſter; and were it otherwiſe, the Merchant would be in a very dangerous Condition.

The Reaſons why he ought to be reſponſible, are, for that the Mariners are of his own chooſing, and under his Correction and Government, and know no other Superior on Ship-board but himſelf; and if they are faulty, he may correct and puniſh them, and juſtifie the ſame by Law; and likewiſe, if the Fact is clearly proved againſt them, may re-imburſe himſelf out of their Wages.

And therefore in all Caſes whereſoever the Merchant loads aboard any Goods or Merchandize, if they be loſt, or imbezled, or any otherways damnified, he muſt be reſponſible for them: for

for the very lading them aboard makes him liable; and that as well by the Common Law, as the Law Marine.

Nay, if the Mariners go with the Ship's Boat to the Key or Wharf to fetch Goods on Ship-board, if once they have taken Charge of them, the Maſter becomes immediately reſponſible if they ſteal, loſe, damnifie, or imbezle them.

The ancienteſt Record of that Nature that is now extant is that in *Edward* the Third's Time, where one brought an Action of Treſpaſs againſt the Maſter for the Imbezlement by his Mariners of Twenty-two Pieces of Gold, Bow, Sheaf of Arrows, Sword, and other Things, which it was adjudged the Maſter ſhould anſwer: Which Judgment was certified into Chancery, in order to have it ſent into the King's-Bench, to enable the Plaintiff to bring an Action upon the ſame in any Place in *England*, where he could meet with the Defendant.

The Maſter's being ſubject to anſwer Damage, is to be underſtood in all ſuch Caſes where the Lading was brought aboard, either by his Conſent or Purſer's; for any other, or ſuch as ſhall be ſecretly brought in, not being entred in the Purſer's Book, or in Bills of Ladings, the Maſter is not obliged to ſee forth-coming, unleſs it be ſuch Goods as the Parties bring into the Ship about them; as Cloaths, Money, and the like, as above; thoſe things being ſeldom entred, yet moſt commonly thoſe that are viſible, the Maſter by Law is reſponſible for.

So likewiſe, if a Maſter fore-warn a Paſſenger to keep his Goods, and that he will no ways take Care of them; and if they be loſt, or purloin'd by the Crew, he will not be obliged to ſee them forth-coming, and is no thereby held reſponſible in caſe of a Loſs; eſpecially if there be no precedent Agreement thereunto.

But if the Goods ſhall be ſent aboard a Ship, and the Maſter ſhall appoint a Cabin for the ſame, and deliver the Key to the Owner, and tell him he will not be reſponſible if a Loſs happens; yet if the Goods are ſtole, he muſt notwithſtanding make Satisfaction.

Note, That Goods once deliver'd to a Maſter, the Cargo is not ſubject to be attached in his Hands; nor can any Cuſtom whatſoever ſupport the ſame; for they are in Law as it were bailed to the Ship until the Freight and all other Charges are paid, and very much doubted whether an Attachment can be made in *London*, of any Goods at all lying on Ship-board in the River of *Thames*, (which though the Port of *London*) notwithſtanding Freight and all other Charges are paid off.

CHAP.

CHAP. XI.

Letters of Marque *and* Reprizal, Privateers *and* Piracy.

Reprizal is a Term borrow'd from the *French*, *Reprende* and *Repriſe*, to retake one thing for another, like our *Saxon Withernam*. The *Repriſalia*, or Letters of *Marque*, have other Appellations in Law, as *Pignoratio*, *Clarigatio* and *Androlepſia*, in Imitation of the *Androlepſia* among the *Greeks*, to ſeize the three next Citizens of that Place whither the Murderer had fled. The *Androlepſia* was always given to him who required Revenge of the Offender. This Right is now confirmed by the *Conſent*, which is the *Law* of Nations; but every Private Man muſt not pretend to do it by his own Authority; he muſt apply to his Prince, and cannot claim it till Juſtice is deny'd him, or illegally delay'd. *Reprizals*, both in the *Common* and *Civil* Law, are the ſame thing. *Repriſalia eſt poteſtas pignorandi contra quemlibet, de Terra debitoris data Creditori pro injuriis & damnis acceptis, Vocabular. utriuſque juris*; 27 E. 3. Stat. 2. Cap. 17. Tho' by the *Law* of *Nature* one Man's Goods are not to be try'd for the Debts of another, nor thoſe of the Publick; yet this Cuſtom has been introduced by the voluntary *Law* of *Nations*. If any *Civil* Society, or the Head of it, ought to make good any Debt; or if the Sovereign has not done Right in anothers Debt, but made himſelf liable to render Satisfaction; the Parties injured may oblige the Goods of the Subjects of ſuch Sovereign and Society, provided 'tis done by the Authority of the Prince or State, to whom they are ſubject, to make Satisfaction for their Loſſes and Damages.

Grot. de Jure Belli & Pacis, lib. 3. c. 2. §. 4, 5.

For this Reaſon, as the Great *Juſtinian* obſerves, was this *Law* of *Reprizals* eſtabliſh'd by the *Conſent* of *Nations*, becauſe 'twas grounded on the Urgency of Human Wants, aſſerted with the greateſt Neceſſities; without this great Neceſſity, Licenſe would be given and tolerated for the committing of *Depredations* and *Injuries*; eſpecially if only the Goods of Rulers were made liable, who ſeldom poſſeſs any thing that the Injur'd can come at for Satisfaction. The Benefit of this Law or Cuſtom made it the more readily ſubmitted to, for that they who were one time grieved by it, conſidered they might at another be righted by the *Attick Law*. The *Athenian* had a Sort of *Reprizals*, called the *Apprehenſions of*

In Nov. Juſt. 52. 134. C. Vinio de injuriis in Sexto Juſt. Juſt. de Jure Nat.

Men, as may be ſeen in the *Archilog. Attic. If one have Force offer'd him and die, his Kinſmen and Friends may apprehend Men, till either the Man-ſlayer be duly puniſh'd or yielded up; but 'tis lawful to apprehend three Men and no more. Herod* was not permitted to make War upon the *Arabians*, but he was allowed to uſe *Pignoration*, and the *Carthaginians* would not ſuffer *Ariſton* the *Tyrian* to be taken; for, ſaid they, The ſame will befall the *Carthaginians* at *Tyre*, and in other Towns of Trade, to which they often reſort. If a Party cannot obtain his definitive Sentence or Judgment within due time, againſt the Perſon of whom he complains; or if there be Judgment given againſt apparent Right and Law; the Bodies and Goods of that Prince's Subjects who renders not Right, may be taken. In the doing of which, there are ſeveral Cautions and Circumſtances neceſſary to render the *Reprizal* lawful by the *Law* of *Nations*, on which it is founded.

Joſeph. lib. 6.

The Party injured muſt give full Proof of his Loſs or Damage upon Oath, or have other ſufficient Evidence of it.

Proof alſo muſt be made, that after due Proſecution for the obtaining Satisfaction in a Legal way, it was deny'd or delay'd. He muſt then complain to his Prince or Government, and they to the Prince or State where the ordinary Courſe of Juſtice was deny'd, or illegally delay'd; and ſuch Prince or State perſiſting in ſuch Denial or illegal Delay, the Sovereign of the Perſon injur'd may iſſue out *Letters* of *Reprizal* under ſuch Reſtrictions and Limitations as are conſonant to Law, according as the particular Caſe requires. This is done in *England* not only by the *Law* of *Nations*, but by the *Municipal Laws* of the Kingdom. By which there are two Sorts of Reprizals, *Ordinary* and *Extraordinary*. The *Ordinary*, either *within* the Realm or *without*; that *without* is granted always when any *Engliſh* Merchants have ſuffered by Merchants Foreigners, in their Perſons or Goods; and they, nor the King by his Embaſſadors have not been able to procure Juſtice to be done to the Perſons injur'd. The Parties proving they have proſecuted the Offenders in a due Courſe of Juſtice, and have been deny'd, or delay'd illegally to have Right done them, ſhall in ſuch Caſe have a *Writ* out of *Chancery* to arreſt the Merchants Strangers of that Nation, or their Goods here in *England*. The Lord Keeper, or Lord Chancellor in this Caſe, has always the Approbation of the King or Council, or both for ſo doing. The *Reprizals without* the Realm are always granted by *Patent*, under the Great Seal, and cannot be revok'd; becauſe after the Perſon injur'd has Petition'd, and according to Law proved his Loſs, obtained Letters of Requeſt, and no Reparation has been made: As ſoon as the *Letters-Patent* are ſeal'd, the

Magna Charta C. 30 *the latter Clauſe.* Clauſ. 2. *Johan. Regni* 22. Pat. 15. E. 3. Part. 2. Droſ. 48. Pat. 23. H. 6. Part, 2. Dorſ. 14, 15.

Leg. qui reſtituere de rei vindic.

the ſame does immediately create and veſt a National Debt in the Grantee, to be ſatisfied in ſuch Manner and ſuch Means as the ſame Letters Patents direct, out of the Goods and Eſtates of that Prince's Subjects who refuſed or illegally delayed Juſtice. But if the Supreme Power thinks the Execution of thoſe Letters of Repriſal cannot well be effected without endangering the Peace of both Eſtates, it may be reſpited till a more convenient Time offers; for the Lives and Eſtates of many Thouſands may be involved in the repairing of one Injury private and peculiar. 'Tis true there are ſeveral Statutes which are poſitive for Repriſals, as 4 *Hen.* 5. *c.* 7. 'That at the grievous Complaint of the 'Commons of *England*, who had ſuffered many Wrongs and Injuries in the Loſs of their Ships and Goods upon the main Sea, 'againſt Leagues, ſafe Conducts and Truces, which were broken 'by the Subjects of other Nations, the ſame Parliament reciting 'their Willingneſs to provide Remedy and Relief for the Grieved, 'by Spoil and Injuries done unto them beyond the Seas, upon 'Complaint to the Keeper of the Privy Seal, he ſhall ſign Letters 'of Requeſt, to demand Reſtitution and Reparation to the Parties grieved, which if not made in convenient time, then the 'Lord Chancellor of *England* ſhall grant Letters of Repriſal in 'due Form of Law, for the Indemnity of the Perſons intereſted 'and injured. The Statute of 4 *Ed.* 4. *c.* 4. ordains, That whereas divers great Offences were often committed againſt Leagues, 'Truces and Amities between the King and other Princes or 'States, againſt ſafe Conducts and Licenſes, and againſt the Laws 'and Statutes of the Realm (in that Caſe made and provided) to 'the Slander of our Sovereign Lord the King, and the Damage 'of his good Subjects the Commons of *England*; it was therefore 'ordained, eſtabliſhed, enacted and confirmed, by the Conſent 'of the Lords Spiritual and Temporal and Commons aſſembled 'in Parliament, that all Statutes and Ordinances againſt the 'Offenders of Leagues, Truces, and ſafe Conducts and Amities, 'ſhall be in full force, excepting the Clauſe in the Act which 'made it High Treaſon, in the Second Year of *Henry* V. However Letters of Repriſal were granted long before thoſe Statutes, nor was the King's Prerogative in the leaſt diminiſhed by them, but remained at the Common Law to judge when 'twas expedient to grant them. Princes are careful in the granting ſuch Letters Patents to have 'em drawn ſo as they may not be reckoned a Breach of the Peace, and the granting of them for particular Satisfaction does not in the ordinary way amount to a Breach. One of the moſt exact in this Kind is the Repriſal awarded by King *Charles* II. in favour of Sir *Edmund Turner* and Mr. *Carew*. We

Johan. Reg. Memb. 22. Pat. 15. Ed. 3. Part. 2. Dorſ. 48.

ſhall give the Reader as much of it as is for our Purpoſe, and ſhews him with what Tenderneſs Princes proceed in Affairs of this Nature.

A Copy of Letters Patents for eſpecial Repriſals from the King of Great Britain *(under the Great Seal of* England*) againſt the States General and their Subjects, inroll'd in the High Court of* Chancery, 19 Maii, 15 Car. 2.

CHARLES, &c. 'WHEREAS our Loving Subjects Sir 'William Courten Kt deceaſed, and his Partners, *Anno* 1643, 'by the Depredation and hoſtile Act of one *Gailand*, Commander in chief of Two Ships belonging to the *East India* Company 'of the *Netherlands*, was between *Goa* and *Maccas* in the *Streights* 'of *Malacca*, depriv'd and moſt injuriouſly ſpoil'd of a certain 'Ship named the *Bona Eſperanza*, and of her Tackling, Apparel 'and Furniture, and all the Goods and Lading in her, upon a 'very hopeful Trading Voyage to *China*, which were carried to '*Batavia*, and there all *de facto*, without due Proceſs of Law, con'fiſcated; and that alſo in the ſame Year another laden Ship of 'our ſaid Subject, called the *Henry Bonadventure*, being come on 'Ground near the Iſland *Mauritius*, was there both Ship and 'Goods ſeized upon by ſome of the Officers and Miniſters, and 'others under the Command of the ſaid *East India* Company, and 'utterly detained from the right Owners: AND WHEREAS 'the ſaid Sir *William Courten* and his Aſſigns in his Life-time uſed 'all poſſible Endeavours to recover the ſaid Ship and Goods, and 'to procure further Juſtice againſt the Malefactors, and yet 'could obtain no Reſtitution or Satisfaction, whereby they came 'to be much diſtreſſed, and utterly undone in their Eſtate and 'Credit; and that thereupon, and upon the moſt humble Sup'plication and Addreſſes of *Francis* Earl of *Shrewsbury* and '*William Courten* Eſq; Grand-child and Heir of the ſaid Sir '*William* deceaſed, Sir *John Ayton* and Sir *William Turner* Knights, 'and *George Carew* and *Charles Whitaker* Eſqrs; on the Behalf of 'themſelves and divers others intereſted in the ſaid Two Ships '*Bona Eſperanza* and *Henry Bonadventure*, and in the Eſtates of 'the ſaid Sir *William Courten* deceaſed, Sir *Edward Littleton* Bart. 'and Sir *Paul Pindar* Knight, deceaſed, that We would take 'their Caſe into Our Princely Conſideration. WE OUT 'OF

'OF A JUST SENSE We then had, and ſtill have of their 'unjuſt Sufferings in that Buſineſs, both by our own Letters un-'der our Sign Manual to the States General of the united Provin-'ces, and by Sir *George Downing* Knight and Baronet, our Envoy 'Extraordinary, to whom We gave ſpecial Command ſo to do, 'required Satisfaction to be made, according to the Rules of Ju-'ſtice, and the Amity and good Correſpondence, which we then 'deſired to conſerve with them firm and inviolable.

'AND WHEREAS after ſeveral Addreſſes made to the States 'General by our ſaid Envoy, and nothing granted effectual for 'Relief of Our ſaid Subjects (whom We take Ourſelves in Honour 'and Juſtice concern'd to ſee ſatisfied and repaid) We lately com-'manded the ſaid Sir *George Downing* to intimate and ſignify to 'the ſaid States, that we expected their final Anſwer concerning 'Satisfaction to be made for the ſaid Ships and Goods by a Time 'then prefix'd, and ſince elapſed, that We might ſo govern Our 'ſelves thereupon that Our aforeſaid Subjects might be relieved, 'according to Right and Juſtice, and yet no ſatisfactory Anſwer 'hath been given, ſo that We cannot but apprehend it to be not 'only a fruitleſs Endeavour, but a proſtituting of Our Honour 'and Dignity, to make further Application, after ſo many Deni-'als and Slightings. AND WHEREAS *John Exton* Doctor of 'Laws, Judge of our High Admiralty-Court of *England*, upon Our 'Command to certify to Us the Value of the Loſſes and Damages 'ſuſtained by the ſaid Sir *William Courten* and Partners, whoſe 'Intereſt is now veſted in Our loving Subjects Sir *Edmond Turner* 'Knight and *George Carew* Eſq; and Partners, hath upon full Exa-'mination and Proof thereof made by Witneſſes in Our High 'Court of Admiralty, reported and certified under his Hand, 'that the ſame do amount to the Sum of One Hundred Fifty One 'Thouſand Six Hundred and Twelve Pounds.

'NOW KNOW YE, That for a full Reſtitution to be made 'to them for their Ships, Goods, and Merchandiſes, of which the 'ſaid Sir *William Courten* Knight and Partners, and the Aſſigns 'of the ſaid Sir *William Courten* Knight and Partners, were ſo de-'ſpoiled as aforeſaid, with all ſuch Coſts and Charges as they 'ſhall be at for the Recovery of the ſame, We, by the Advice of 'Our Privy Council, have thought fit, and by theſe Preſents do 'grant Licenſe and Authority under Our Great Seal of *England*, 'unto Our ſaid Subjects Sir *Edmond Turner* and *George Carew*, 'their Executors, Adminiſtrators, and Aſſigns, for and on the 'Behalf of themſelves and other Perſons intereſted, as aforeſaid, 'to Equip, Victual, Furniſh, and to ſet to Sea from time to time,

'ſuch

'ſuch and ſo many Ships and Pinaces as they ſhall think fit, pro-
'vided always that there be an Entry made and recorded in the
'Admiralty Courts of the Names of all Ships and Veſſels, and of
'their Burden and Ammunition, and for how long Time they
'are Victualled, and alſo the Name of the Commander thereof,
'before the ſame, or any of them, be ſet forth to Sea, and with
'the ſaid Ships and Pinaces by force of Arms to ſet upon, take
'and apprehend any of the Ships, Goods, Monies and Merchan-
'dizes of the States General, or any of the Subjects inhabiting
'within any of their Dominions or Territories, whereſoever the
'ſame ſhall be found, and not in any Port or Harbour in *Eng-*
'*land* or *Ireland*, unleſs it be the Ships and Goods of the Parties
'that did the Wrong. And the ſaid Ships, Goods, Monies and
'Merchandizes, being ſo taken, and brought into ſome Port of
'our Realms and Dominions, an Inventory thereof ſhall be ta-
'ken by Authority of our Court of Admiralty, by the Judge or
'Judges thereof for the time being, upon Proofs made before
'him or them that the ſaid Ships, Goods, Wares, Merchandizes
'or Money, did belong to the States General, or any of their
'Subjects, as aforeſaid, that they ſhall be lawful Prize to the
'ſaid Sir *Edmund Turner* and *George Carew*, their Executors,
'Adminiſtrators and Aſſigns, as aforeſaid, to retain and keep
'in their, or any of their Poſſeſſions, and to make Sale, and diſ-
'poſe thereof in open Market, or howſoever elſe, to their, and
'every of their beſt Advantage and Benefit, in as ample manner
'as at any time heretofore hath been accuſtomed by way of Re-
'priſal, and to have and enjoy the ſame as lawful Prize, and as
'their own proper Goods: SO THAT neither Captain, Ma-
'ſter, nor any of their Company, that ſhall ſerve in his own
'Perſon, or ſhall promote and advance the ſaid Enterprize in
'Manner and Form aforeſaid, ſhall in any manner of wiſe be re-
'puted or challenged as an Offender againſt any of our Laws.
'And that it ſhall be lawful for all manner of Perſons, as well
'our Subjects as any other, to buy the ſaid Ships, Goods and
'Merchandize ſo taken and apprehended by the ſaid Captains,
'Maſters, and others, and adjudged as aforeſaid, without any
'Damage, Loſs, Hindrance, Trouble, Moleſtation or Incum-
'brance to befall the ſaid Buyers, or any of them, in as am-
'ple and lawful manner as if the Ships, Goods, Wares and
'Merchandizes had been come and gotten by lawful Traffick
'of Merchants, or of juſt Prizes in the time of open War.
'PROVIDED ALWAYS, That all Ships, Goods, and Mer-
'chandize, taken by virtue of this our Commiſſion, ſhall be
'kept

'kept in Safety, and no part of them waſted, ſpoiled or diminiſh-
'ed, or the Bulk thereof broken, until Judgment have firſt paſt
'as aforeſaid, that they are the Ships and Merchandize of the
'States General, or ſome of their Subjects, as aforeſaid. And if
'by Colour of this our Commiſſion there ſhall be taken any Ships,
'Goods or Merchandizes of any of our loving Subjects, or the Sub-
'jects of any Prince or State in good League or Amity with us
'(except the States General, or their Subjects, as aforeſaid) and the
'Goods therein laden, ſold and imbezled or diminiſhed, or the
'Bulk thereof broken in any place, before they ſhall be adjudged
'to belong to the States General, or ſome of their Subjects as
'aforeſaid, that then this Commiſſion ſhall be of no ſufficient Au-
'thority to take the ſaid Ships, Goods and Merchandizes, or to
'warrant or ſave harmleſs ſuch as ſhall receive, buy, or inter-
'meddle therein, but that both the Prizes ſo taken, and the ſaid
'Ships of War, ſhall be confiſcated to our Uſe.

'AND FURTHER, We do hereby declare, That it is our
'Will and Pleaſure that this our Commiſſion ſhall remain in full
'Force and Power, to all Intents and Purpoſes, until the ſaid
'Sir *Edmund Turner* and *George Carew*, their Executors, Admini-
'ſtrators and Aſſigns, as aforeſaid, ſhall by virtue thereof have
'by Force of Arms apprehended, taken, ſeized, recovered, and
'received from the ſaid States General, or their Subjects, One
'Hundred Fifty One Thouſand Six Hundred and Twelve Pounds,
'according to the Appraiſment to be made by ſuch Appraiſers,
'upon Oath nominated and authorized in our ſaid Court of Ad-
'miralty, of ſuch Ships, Goods, Wares and Merchandizes, as ſhall
'be taken from the ſaid States General, or any of their Subjects,
'by virtue of this Commiſſion, or ſhall otherwiſe receive Satis-
'faction of the Debt aforeſaid, by Compoſition to be made between
'thoſe of the *Eaſt India* Company of the *Netherlands* and the ſaid
'Sir *Edmund Turner* and *George Carew*, their Executors, Admini-
'ſtrators and Aſſigns, as aforeſaid; notwithſtanding it ſo happen
'the preſent Difference between us and the ſaid States General,
'depending upon general Repriſals, may be agreed and compos'd;
'and that in the Interim a Peace and good Correſpondence may
'be renewed between us and the ſaid States General: In which
'Caſe nevertheleſs it is our Will and Pleaſure, That in the Exe-
'cution of this our Commiſſion, no Violence ſhall be done to the
'Perſons of the ſaid Subjects of the States General, but only in
'Caſe of Reſiſtance; and that after in cold Blood, the Subjects of
'the ſaid States General, if hurt or wounded, ſhall be uſed with
'all convenient Offices of Humanity and Kindneſs, *&c.*

What

What elſe is in theſe *Letters-Patents* relates to the particular Circumſtances of that Caſe and Juncture: So we proceed to the extraordinary Sorts of *Reprizal* in *England*, which is by *Letters* of *Marque* for Reparation at Sea or any Place out of the Kingdom, granted by the Secretaries of State with the like Approbation of the King or Council, or both; but they are only during the King's Pleaſure, and to weaken the Enemy in time of War, and may at any time be revok'd. Princes are by the *Jus Gentium* anſwerable for Publick Injuries, and they ought as well to take care to prevent thoſe that are Private, not ſuffering Strangers to receive any wrong in their Dominions. They generally preſent two or more *Letters* of *Requeſt* by their Envoys or Agents before *Patents* of *Reprizals* are awarded. The Matter muſt not be doubtful, but the Injury very certain; and well-ordered Caſes where Reprizals will or will not lye, are thus Stated by a Learned hand. 'If an *Engliſh* Merchant ſhall Proſecute a Suit in the 'Ordinary Courts of the Law beyond Seas, and Sentence or 'Judgment ſhall paſs againſt him, from which he appeals to the 'Supream Judgment, and there the firſt Judgment or Sentence 'is affirmed, tho' the Complainant has received a Judgment 'againſt the Real Right of the Caſe; yet this will be no Cauſe 'for *Letters* of *Reprizal*, tho' perhaps it may occaſion *Letters* of '*Requeſt* (if there be ſtrong Circumſtances for the ſame) to have 'a Rehearing of the Cauſe. But if an *Engliſhman* ſhall recover 'a Debt there, and then the Officer having the Debtor in Cuſtody, will wilfully let the Priſoner eſcape, and then become 'Inſolvent, that may perhaps occaſion *Reprizals*. In *England* if a 'Foreigner bring an Action Perſonally againſt *J. S.* the Matter is found Special or General; the Party prays Judgment, 'the Court refuſes it; the Defendant then dies, and with him 'the Action; the Nature of it being ſuch, the Party is here 'without Remedy: The ſame may occaſion *Letters* of *Reprizal*, if 'it be accompanied with thoſe Circumſtances that evince an 'apparent Denial of Juſtice, *i. e.* as putting it off from Term to 'Term without Cauſe. An *Engliſhman* purſues his Right in the 'Legal Courts beyond Seas, the Military Governour oppoſes 'the Proſecution, and by Force conveys away the Debtor and 'his Goods; the Sentence or Judgment is obtained, its Ultimate 'End being Execution, which being thus fruſtrated may occaſion *Letters* of *Reprizal*. Perſons Murdered, Spoiled, or otherwiſe Damnify'd in Hoſtile manner, in the Territories or Places 'belonging to that King, to whom *Letters* of *Requeſt* are iſſued 'forth; if Satisfaction be not returned, *Letters* of *Reprizal* may iſſue 'forth, and the Parties Petitioners are not in ſuch Caſes com-

'pell'd

'pell'd to reſort to the Ordinary Proſecutions. But the Prince 'of that Country, againſt whom the ſame are awarded, muſt 'repair the Damage out of his or their Eſtates who committed 'the Injuries; and if that proves deficient, it muſt then fall as a 'common Debt on his Country. *Letters* of *Requeſt* generally aſ-'ſign a time certain for Damages, to be repair'd; if not, *Repri-'zals* to iſſue forth". King *Charles* I. after the Maſſacre at *Amboyna* iſſued forth Letters of Requeſt to the States of *Holland* for Satisfaction within 18 Months, otherwiſe Letters of Reprizal were to follow. King *Charles* II. on the Petition of Meſſieurs *Goulor* and *Canham*, granted one *Lee* in a Caſe of Slaughter, Letters of Requeſt to the Great Duke of *Tuſcany*, for Redreſs againſt the Governour of *Leghorn*. In 1674. the ſame Prince iſſued out Letters of Requeſt to the King of *Spain*, requiring Satisfaction for the Depredation committed on the Ship and Goods of Mr. *Stampe*, who was rob'd and murder'd at the *Havana*. He alſo publiſhed a Proclamation in the following Year, promiſing a Reward for the apprehending the Offenders dead or alive. 'Tis not the place of a Man's Nativity, but of his Habitation, that ſubjects him to Reprizals, which cannot be granting on Misfortunes happening to Perſons or their Goods, reſiding or being in Foreign Parts in time of War there: Of which we have a Notable Inſtance in our Law Books. The Factions of the *Guelfs* and *Gibbelins* in *Florence* warring againſt each other; the *Guelfs* prevail'd in that City, and expelled the *Gibbelins*. Upon this *Domum cujuſdam Hugonis de Papi in hoc Regno Angliæ demorantis diruerunt*; *they plunder'd him here*; *& Hugo Supplicavit Domino Regi, ut inde Itali Mercatores* (of that Faction and City then in *England*) *emandas hic ſibi facerent*; and 'twas adjudged *quod dicti Mercatores dicto Hugoni ſatisfaciant pro Damnis ſuſceptis, & deſtructione Domus ſuæ*: Upon which a Writ of Error was brought, and the Judgment was revers'd in theſe words, *Quod non eſt conſuetudo Angliæ, de aliqua tranſgreſſione facta in aliena Regione tempore guerræ, vel alio modo —— conſideratum eſt, quod totus proceſſus & ejus ejectus provocentur*. There are ſeveral Perſons who are exempted by the *Jus Gentium*, *Jus Civile*, and *Jus Commune* from this Law of Reprizals, as *Ambaſſadors*, *Eccleſiaſticks*, *Women* or *Children*, and *Travellers*. Certain Goods are exempted alſo from the Law of Reprizals, as Ships driven into a Port by ſtreſs of Weather, and the Goods of the Perſons before-mentioned. 'Tis not lawful to ſeize any Ship for Reprizals, unleſs it be in the Ports of the Princes, who granted the Letters of Reprizals, or his againſt whom they were granted: In Proſecution of theſe Letters Ships may be attack'd that refuſe to yield; and if by

Leoſtitema p. 48. 13. 41. 42

such Reſiſtance any of thoſe Ship's Crew are hurt or kill'd, the fault will lye at their own Doors. As to a Ship's being Prize or not Prize, that muſt be tried in the Admiralty, and a Prohibition ſhall be granted. Ships taken at Sea as Prize ſhall alſo be tried in the Admiralty.

1 *Sid.* 320. 2 *Keeble* 158. & 176. *Raymond* 473. 1 *Sid.* 367. *Keeble* 360. 364, &c.

If a Merchant has Letters of *Marque* awarded him, and he takes a Ship belonging to the Nation againſt whom it was *awarded*, and carries it into the Port of a Neutral Nation, the Owner of that Ship may here ſeize it, for that the ſame ought firſt to have been brought *Infra Præſidia* of that Prince or State, by whoſe Subjects the Ship was taken. If the Captors be by Men of War, the Property will immediately be in the Captors, unleſs it be loſt again, and the Ship or Goods taken, be recover'd by the Perſons from whom they were ſo taken, or be regain'd, *vi manu & forti* in Battle.

2 *Keeble* 441.

In Caſe two Ships of the ſame Nation, having *Letters* of *Marque*, are at Sea in Company, and one of them taken a Prize, before the other can come up, nevertheleſs the laſt Ship being ready and prepar'd for Battle, has a right to a Moiety of that Prize. If thoſe to whom *Letters* of *Marque* are granted, wilfully take or ſpoil the Goods of any other Nation than that againſt which theſe *Letters* were awarded, *that is to be deem'd Pyracy*, and the Ship is forfeited. But in Caſe ſuch *Letters* of *Marque* be aſſign'd over to another Perſon, who takes any ſuch Ship or Goods of another Nation, on a violent Preſumption that it belong'd to the right of him, againſt whom *Reprizals* are granted, tho' the Sufferers recover their Goods and Ship, yet the Captors are not to be Puniſh'd *Criminaliter*, nor the Grantee of the Letters-Patent *Civiliter*. The Captors are not, perhaps, excuſed from anſwering the Damages, but the Grantees are excus'd from both that and Puniſhment, unleſs privy to the Captors: For the *Letters-Patent* do not only veſt the Debt in the Party, but do likewiſe give Power to the Party to recover, and is a Judicial Proceſs to obtain Satisfaction, *vi manu & forti*, from the Subjects of that Prince or State, againſt whom the ſame are awarded: 'Tis as much as if an Officer Arreſt a wrong Perſon; He is liable to anſwer the Damage to the Party Arreſted, but not the Man that employ'd him. Sufficient Security is always taken that ſuch as have *Letters* of *Marque* granted them, ſhall Proſecute them according to Law, otherwiſe they are of no Force: The Goods taken by *Reprizals* muſt not be touch'd till they are legally Condemn'd and then they are not Subject to pay Cuſtoms. The Captors of Goods by *Letters* of *Reprizal*, are immediately veſted in a right to them, which

Rolls Abridg. Fol. 530.

Stat. 4 *H.* 5. c. 14. *H.* 4. c. 4.

12 Car. 11. *called the Art of Navigation.*

which continues till the original Debt and ſubſequent Charges are ſatisfied. If the Subjects of *England* commit any Depredations to foreign Merchants, the Kings have iſſued out Commiſſions to puniſh the Offenders, and make Reſtitution and Satisfaction for the Damages. *Pat. 26. E. 3. Pars 1. M. 16. Dorf. &c.*

We come now to treat of Privateers and Capers, and ſhall not enter into Enquiries of their being lawful by the Law of Nations, for if War is lawful, Privateers are certainly ſo, and the Ship and Goods of our Enemy may be as legally taken or ſpoiled as his Perſon ſlain. The Uſe of Privateers to endamage an Enemy's Trade is not perhaps very ancient, and Piratical Wars, ſuch as the *French* manage at Sea, not ſo glorious as thoſe that are managed by Royal Fleets, yet that they are lawful none can queſtion, who do not doubt the Lawfulneſs of War it ſelf, for by the *Jus Gentium* 'tis lawful for every Subject in time of War to ſeize upon the Enemies Goods and Ships, as alſo to kill them, for after War is denounced the Law looks upon them as of no Account; the ſolemn Arguments made uſe of by our Lawyers on this Occaſion might very well have been ſpared, for if a Prince may commiſſion his Subjects to deſtroy his Enemies in what manner they can, to kill and take their Perſons, and ſpoil their Houſes and Goods, the Commiſſions granted to Privateers are as juſt as any, 'tis no matter whether the Perſon ſo commiſſioned is paid by the Prince, or is content to pay himſelf out of the Spoil of the Enemy, or if he acts for no Pay at all, but out of Love to his Country and Loyalty to his Prince. That War is lawful in a righteous Quarrel who does not confeſs? and that all Ways of bringing an Enemy to reaſon, which are not againſt the Laws of Nature and Nations, are of the ſame Legality? it has therefore been cuſtomary ſince the Trade of *Europe* has been ſo great and important for Princes and States, in Caſe of a Rupture with other Princes and States, to iſſue forth Commiſſions to private Men to equip Ships of War at their own Charge, to whom, inſtead of Pay, is granted Leave to keep what they can take from the Enemy; but till the late Act of Parliament in favour of Privateers, the Reſtrictions of theſe Commiſſions rendred them too ineffectual in *England* for the Purpoſes they were intended for; theſe Ships are called Privateers and Capers, and the Owners are not to convert any Part of their Captures to their own Uſe till they are condemned as Prize. No Privateer is to attack an Enemy in a neutral Port, as Sir *Kenelm Digby* did in the Year 1629, falling upon the *French* under the Protection of the Government of *Algier*, for which the *Engliſh* Merchants Effects were ſeized in *Turky* till Reparation was made.

made. Care muſt be taken in granting ſuch Commiſſions that Security be given for the Preſervation of the Leagues with the Princes, Allies and Friends who grant them. If Torture, Cruelty, or any barbarous Uſage happens after the Capture to be done to the Perſons taken in the Prize, 'twas agreed in the Marine Treaty between King *Charles* II. and the States General, *Anno Dom.* 1674, that the ſame ſhould *ipſo facto* diſcharge ſuch a Prize tho' ſhe was lawful, and the Captains ſhould loſe their Commiſſions, and both they and the Offenders be ſubjected to Puniſhment; but this Agreement the *Engliſh* and *Dutch* have found by woful Experience not to concern any other Nation, for the *French* have treated their Priſoners with all the Barbarity which their Rage and Inſolence could think of. Neutral Ships carrying Powder, Shot, Guns, Swords, and all other Warlike Inſtruments and Proviſions, are accounted Prize; ſo are Money, Corn, and Ships, if a Prince cannot well defend himſelf without intercepting of ſuch Things. Goods for Pleaſure and Luxury only are not reckoned among ſuch as are Prizable in neutral Ships, or Ships belonging to neutral Nations. If Part of a Cargo taken by a Privateer be prohibited Goods, and the other Part be not prohibited, but ſuch as according to the Neceſſity of the War ſhall be ſo deemed, that may draw on a conſequential Condemnation of the Ship as well as Lading. If Part of the Lading is prohibited, and the other Part is merely for Pleaſure, the former only ſhall be adjudged to be Prize, and the Ship and the reſt of the Cargo be diſcharged; but if all the Lading be contraband Goods, both Ship and Goods may be made Prize. Ships refuſing to be examined, reſiſt at their Peril: But if any Privateer wilfully commits any Spoil on the Ships of Friends or Neuters, or on the Ships of their Fellow Subjects, according as the Circumſtances of the Crime are more or leſs heinous, he is liable to be puniſhed by Death or otherwiſe, and the Ship to be forfeited. Our Laws take not much Notice of theſe Privateers, becauſe the Manner of ſuch Warring is new, and not very honourable, but the Diligence of our Enemies in this Piratical way obliges us to be alſo as diligent, for the Preſervation of our Commerce, which is of the laſt Importance to us in *England*, for this reaſon ſeveral Acts of Parliament have paſt for the Encouragement of Privateers, in the Reign of his late Majeſty, and our preſent Sovereign, particularly one paſt in the laſt Seſſions of Parliament, which gives greater Privileges and Advantages to the Privateers than all the reſt; we ſhall give the Reader an Abſtract of it.

An Abſtract of the Act for the better ſecuring the Trade of this Kingdom by Cruiſers and Convoys.

'ENacted, for the better preſerving ſuch Ships as ſhall be employed in the Trade of *Great Britain*, that over and above the Ships of War for the Line of Battel, *&c.* 43 Ships ſhall be employed as Cruiſers, *viz.* 6 Third Rates, 20 Fourth Rates, 13 Fifth Rates, and 4 Sixth Rates, whereof 9 on the North Eaſt of *Great Britain*, and 3 on the North Weſt Coaſt, in ſuch Stations as ſhall be directed by the Lord High Admiral of *Great Britain*, *&c.* and ſhall be Careened at leaſt three times a Year, and the Seamen on board ſuch Ships ſhall not be turned over to any Ships, but ſuch only as are appointed for Cruiſing.

'Nothing in this Act contained ſhall reſtrain the Lord High Admiral of *Great Britain*, &c. from directing any of the ſaid Ships to be employed in the Line of Battel (in Caſe of Neceſſity) on this ſide *Cape Finiſter*, but without ſuch Direction ſuch Ships ſhall be always employed as Home Cruiſers, except when Careening, *&c.*

'The Lord High Admiral, *&c.* ſhall before the 20th of *March* 1707 appoint the Commiſſioners of the Navy, or ſome one or more Perſons, to reſide at ſuch Places as her Majeſty ſhall appoint, to ſuperintend and overſee every thing relating thereto, and that they have Things neceſſary when forced by bad Weather into Port, or come in to careen, *&c.* and ſo ſoon as refitted ſhall order them to Sea again.

'The Commiſſioner of the Navy in the Out Ports, *&c.* ſhall ſend up to the Lord High Admiral, *&c.* within Eight Days after the meeting of every Parliament, an Account digeſted into Columns, of the Time when any of the ſaid Ships ſailed out of Port, when ſhe came in, with the Number of Days caſt up ſhe was out on Duty, and an Account how often, and Times when, Careened every Year, the Reaſons of her putting into Port, and Time and Reaſons of her Stay there, all which ſhall be laid before both Houſes of Parliament within Eight Days after the meeting of every Seſſion.

'The Lord High Admiral, *&c.* ſhall before the 26th of *March* 1708 appoint the ſaid Number of Men of War of the Rates

'aforeſaid.

'aforeſaid to be Cruiſers and Convoys on this ſide *Cape Finiſter* 'for the Year 1708, and every Year after, during the War, be- 'tween the Firſt of *November* and the Firſt of *December*, ſhall ap- 'point the like Number, *&c.* for the Year enſuing; and if any 'be taken or loſt, ſhall appoint others of the ſame Rate, *&c.* in 'their room.

'After *March* 26 1708 any Ship of War, Privateer, *&c.* ta- 'ken as Prize by any her Majeſty's Men of War, *&c.* and adjudg- 'ed a Prize, the Officers and Seamen on board ſuch a Ship, *&c.* 'ſhall after Condemnation, have the ſole Property in ſuch Prize, '*&c.* to their own Uſe, to be ſold by ſuch Perſons as ſhall be ap- 'pointed by the Commanders, *&c.* as ſhall take ſuch Prize, or 'the major Part of them, the whole to be divided, *&c.* accord- 'ing to the Proportion, as by her Majeſty's Proclamation to be 'iſſued out for that purpoſe ſhall be directed.

'And if her Majeſty or the Lord High Admiral, *&c.* ſhall take 'into the Service any ſuch Ship ſo taken and condemned, then 'ſuch Ship, with her Stores, *&c.* ſhall be appraiſed by Officers 'appointed by her Majeſty, and by the like Number of Perſons 'appointed by the Majority of the Commanders, *&c.* that took 'ſuch Prize, and on producing ſuch Appraiſment and Certificate 'of Delivery of ſuch Ship, *&c.* to the Commiſſioners of the Navy, 'they ſhall make forth a Bill for the full Value within 15 Days, 'for Payment, according to the Courſe of the Navy, to be divi- 'ded, as aforeſaid.

'And for a further Encouragement, there ſhall be paid by the 'Treaſurer of the Navy, upon Bills to be made forth by the 'Commiſſioners of the Navy, to the Officers, Seamen, and others 'actually on board ſuch Ship in ſuch Action, 5 *l.* for every Man 'which was living on board ſuch Ship ſo taken at the beginning 'of the Engagement, the Numbers to be proved by the Oaths 'of Three or more Officers, *&c.* belonging to the Enemies Ship, 'before the Mayor, *&c.* of the Port where ſuch Prize ſhall be 'brought in, which Oaths the Mayor, *&c.* is hereby impowered 'to adminiſter, and ſhall grant a Certificate thereof without Fee, 'directed to the Commiſſioners of the Navy, upon producing 'whereof, together with a Copy of the Condemnation by the 'High Court of Admiralty, to the ſaid Commiſſioners, they ſhall 'within 15 Days make out Bills for ſuch Bounty, directed to the 'Treaſurer, *&c.* to be paid according to the Courſe of the Navy, 'and divided as her Majeſty's Proclamation to be iſſued out ſhall 'direct.

'Nothing

'Nothing herein ſhall exempt any Ships, Goods, &c. ſo taken 'as Prize, from payment of Cuſtoms, &c. but on bringing ſuch 'Goods, &c. into any Port of *Great Britain*, they ſhall be unladen, '&c. in the preſence of the Officers for ſuch Port, and the Goods, '&c. put into Her Majeſties Warehouſe, locked up with three 'Locks, the Key of one to be kept by the Collector, another by 'the Comptroller, and the other by an Agent imployed by the 'Captors till ſold, who may bring Appraiſers, &c. to view, &c. 'and when ſold, the Perſon buying ſhall pay the Cuſtoms before 'delivery, &c.

'That all Appraiſements and Sales of ſuch Ships, Goods, &c. 'ſhall be made by Agents nominated in equal Numbers by the 'Commander, Officers, and Ships-Company; if Commander, &c. 'ſhall nominate one or more, then the Officers entitled thereto, 'or majority, ſhall nominate the like Number, and all the Ships 'Company the like Number, to act on their behalf.

'After the Sale of ſuch Prize, &c. Publick Notice ſhall be given 'by the Agents, of the Day appointed for the Payment of the 'Shares to the Captors aforeſaid; after which, if any Mens Shares 'remain in the Hands of Agents, either due to ſuch as ſhall die 'or run from the Service, or not legally demanded within three 'Years, ſuch Shares ſo remaining, &c. ſhall go to *Greenwich-Hoſpital.*

'And as well the Bills to be made for the Value of ſuch Prizes 'taken into Her Majeſties Service, as the Bills for Bounty ſhall 'be made payable to ſuch Perſons as ſhall be appointed to Ap-'praiſe or Diſpoſe of ſuch Prizes; and the Shares of ſuch Cap-'tors, if not legally demanded within three Years after Publick 'Notice given, ſhall go to *Greenwich*-Hoſpital.

'If any Commander, &c. ſhall break Bulk on Board, or imbezel 'any Goods, &c. belonging to ſuch Ship ſo taken, they ſhall for-'feit treble the Value of the Goods, &c. one Third Part to *Green-'wich*-Hoſpital, and the other two Thirds to the Informer. This 'Act to continue during the War, and no longer.

The next thing we are to treat of is *Pirates* and *Piracy.*

Pirates are common Sea-Rovers, without any Place of Reſidence, acknowledge no Sovereign nor no Law, and it is the Duty of all Princes, Potentates and People whatſoever, to do what is in their Power for the total Extirpation of ſuch ravenous Beaſts, who ought not to be treated as other Enemies are in War, but as Traytors to God and Man, and the Common Plagues and Diſturbers of the Peace of the Univerſe

A Pirate

A Pirate is always reckon'd *Hoſtis Humani Generis*, and *Hugo Grotius* in his Treatiſe *de Jure Belli & Pacis* ſays, All Princes have Power to make War againſt Pyrates, and ſuch as live by Robbery at Sea, tho' they are not ſubject to their Government.

Lib. 2. Cap. 20. Sect. 40.

'Tis true, *Algiers*, *Tripoli* and *Tunis*, and ſome other Towns upon the Coaſt of *Barbary*, are only inhabited by Miſcreants, who ſubſiſt by no other means. And tho' at the firſt Eſtabliſhment of their Predeceſſors, who were a Set of diſcontented Mariners and other Rakehels, and Debauchees of all Nations, it was not thought fit in warring with them, to allow them the Privileges granted to other States, or Civil Societies of Men; yet they having afterwards modell'd themſelves into a formal Method of Government, and acknowledged the Grand Seignor as their Sovereign; the Kings of *England*, as well as other States and Princes, have concluded Solemn Treaties with them.

Sir *John Lawſon* concluded a Peace the 5th of *October* 1662. between King *Charles* II. by the Name of *the moſt Serene and Mighty Prince*, Charles II. *by the Grace of God King of* Great Britain, France, *and* Ireland, *Defender of the Faith*, &c. *and the moſt Noble, Excellent Seignors, Mahomet Baſhaw, the Divan of the Noble City of* Tunis, *Hagge, Muſtapha Dei, Morat Bei, and the reſt of the Soldiers in the Kingdom of* Tunis. And Sir *John Narborough* on the 5th of *March* 167⅔. concluded a Treaty with the Government of *Tripoli* by the Name of *Halil Baſhaw, Ibrahim Dey Aga, Divan and Governours of the Noble City and Kingdom of* Tripoli *in* Barbary. Tho' 'tis generally agreed by *Civilians*, that *Pirates* are not capable of the Solemnities of *War*, nor the Right of *Legation*; yet when a Company of them forming themſelves into a Society, ſubmit to Laws, and are acknowledg'd as a State, they cannot afterwards be treated as Pirates, but as Enemies; between whom and Pirates there is a great deal of difference. We read in *Tacitus* that *Tacfazinas* having ſent Legates to *Tiberius*, he was diſpleaſed that a Traytor and Pirate ſhould uſe the manner of an Enemy. But if Faith is given ſuch Men, they may obtain the Right of *Legation*, as the Fugitives in the *Pyrenean* Foreſts, and the *Banditi* at *Naples*. *Solyman* the Magnificent, having taken the Pirate *Barbaroſſa* into his Service, ſent the *Venetians* Word, *That they ſhould Uſe him, and Eſteem him no more as a Pirate, but as one of their own Port.* *Pirates* are not to be ſuccour'd by the *Law* of *Nations*, nor claim any of the *Rights* of a fair *Enemy*.

Annal. 3.

Hiſt Rep. Venet. Fol. 91.

All Maſters of Ships ſhould be careful how they ſuffer themſelves to be betray'd by them; for if by their own Folly a Pirate ſurprizes a Maſter, and takes him Priſoner, the Owners of the Ship and Cargo are not obliged to contribute towards his *Redemption.*

Redemption; but if a Maſter does his Duty, and is taken by Force, the Owners of the Ship and Cargo are liable to contribute towards his Redemption, he having become a Slave to the Captors for the Ranſom of the Ship. If the Pirate be overcome in Battel no Treaty is to be made with him, but the Ship and Men are to be ſeized, and Juſtice executed upon them. The Captors are not obliged to bring the Pirates they take on the Ocean to any Port, but may puniſh them immediately, by hanging them up at the Main-yard End; and if the Captors bring them to Port, and the Judge openly reject their Trial, or the Captors be not able to wait for the Judge without certain Peril and Loſs, Juſtice may be done upon them by the Law of Nature, and the ſame may be there executed by the Captors. Thus *Caius Cæſar*, being but a private Man, purſued the Pirates by whom he had been formerly taken and rob'd, and making up to them with a ſufficient Number of Ships, attacked, burnt and deſtroyed thoſe of the Pirates, the Men he carried before the Pro-conſul to do Juſtice, which the latter neglecting, *Cæſar* hanged them up himſelf.

Leg. ad Legem Rhod. de jactu.

Leg. Extat. D. quod metus.

Plutarch in Cæſar.

It has been diſputed whether that Man who promiſes Ranſom to a Pirate, commits Wrong if he does not pay him; the general Opinion in the Civil Law is, that the Law of Arms is not communicated to ſuch, and that they cannot pretend to any Right to the Privileges lawful Enemies may challenge in the Caption of another; others affirm a Pirate may have a lawful Poſſeſſion, and that it cannot be denied him (if Injury be done him) to claim the Benefit of the Law, for by taking a legal Courſe he ſubmits himſelf to the Magiſtrate, and pays Obedience to the Law by demanding Juſtice; beſides, the Juſtice that is done him is not ſo much in Favour of the Pirate, as in Hatred of him who firſt commits the Wrong. *Auguſtus Cæſar* having proclaimed a Reward of Ten *Seſterces* for any one that ſhould take the famous *Spaniſh* Pirate *Coracetas*, he having Notice of it, voluntarily ſurrendred himſelf to the Emperor, and demanded of him the promiſed Reward, but ſome of his Miniſters were rather for hanging than rewarding him, upon which *Auguſtus* gave Judgment that he ſhould be paid what was promiſed him, for otherwiſe the Publick Faith ſhould be betrayed; and 'tis the ſame if a Maſter gives his Oath to a Pirate to pay him a certain Sum of Money for his Ranſom, he is guilty of Perjury if he breaks it, for tho' the Perſon be an Out-law, yet the Sanctity of the Oath is the ſame. We have ſeveral Statutes againſt *Engliſhmen* committing Piracy on the Subjects of any Prince or State in Amity with the Crown of *England*, and particularly the 28th of *Henry* VIII. which makes it Felony for any Foreigner,

Subject to any Prince or State in Amity with the Crown of *England*, to commit Piracy on the Ships or Goods of the *Engliſh*. If the Subjects of any Prince in Amity with the Crown of *England* commit a Piracy aboard an *Engliſh* Ship, in Conjunction with *Engliſhmen*, the latter ſhall be tried by the Statute, but the Foreigners by a Court-Martial, and receive Judgment accordingly. Piraces committed in the *Britiſh* Seas by the Subjects of any Prince or State in Amity with the Crown of *England*, are properly puniſhable only by it; for the Kings of *England* have *iſtud Regimen Dominium* excluſive of the *French* King's, or any other Sovereign's. If a Pirate aſſaulting a Ship happens to kill any one of her Crew, he and all his Company are Principals in ſuch a Murder when the common Law has Juriſdiction of ſuch a Cauſe; but by the Law Marine, if the Parties are known, they who gave the Wound only ſhall be Principals, and the reſt Acceſſaries. If a *Spaniard* robs a *Frenchman* on the high Sea, both their Princes being then in Amity, and they alſo with the Crown of *England*, and the Ship is brought into the Ports of the King of *England*, the *Frenchman* may proceed criminally againſt the *Spaniard* to puniſh him, and civilly to have Reſtitution of the Veſſel; but if the Ship is carried *infra Præſidia* of that Prince by whoſe Subjects the ſame was taken, there can be no Civil Proceſs, and 'tis to be queſtioned whether there can be any Criminal, but the *Frenchman* muſt reſort into the Captor's own Country, or where he carried the Ships, and there proceed. For in all Caſes where a Ship is taken by Letters of Marque, or by Privateers, if the ſame is not carried *infra Præſidia* of that Prince or State by whoſe Subjects the ſame was taken, the Owners are not diveſted of their Property, but may re-ſeize where-ever they meet with their Veſſels. If a Maſter of a Ship carries his Lading to the Port appointed, and after retakes a whole Lock or Bale of Merchandize, it may amount to Piracy: The ſame will a Man's forcing a Maſter to ſwear to pay a certain Sum for his Redemption, tho' there be no Taking by the Civil Law, but by the Common Law there muſt be an actual Taking. It amounts to Piracy if a Man robs a Ship while the Crew are in their Boat or aſhore. If a Ship in Neceſſity at Sea attacks another, and takes out ſome Victuals, Cables, Ropes, Anchors, or Sails, this is not Piracy, (eſpecially if that other Ship may ſpare them) but then the Party muſt pay ready Money for ſuch Things, or give a Note or Bill for the Payment of the Value within 4 Months, if on this ſide the *Streights* of *Gibraltar*, if beyond, 12 Months. A Pirate having taken certain Goods from ſeveral Ships, and attacks another Ship afterwards, and

Selden Mare Clauſum. lib. 1. cap. 27.

13 *Edw.* IV. 9.

4 *Edw.* 3. 14.

4 *H.* 4. 2. *ad Leg. Rhod. de jactu.* 14 *E.* 3.

and is himſelf taken; in ſuch Caſe the Prize becomes abſolutely the Captor's, except what he is accountable for to the Admiral, who may, if he pleaſes, reſtore the Goods of the Captor's Fellow-Subjects, or the Subjects of that Prince or State in Amity with his own Sovereign, they paying the Captor his Coſts and Charges, and what other things ſhall in Equity be decreed him. If a Merchant loſes his Goods at Sea by Piracy or Tempeſt (not being wrack'd) and they afterwards come to Land, if he can make Proof they are his Goods, they ſhall be reſtor'd to him in Places *Guildable* by the King's Officers; and ſo of thoſe of the Country, and in other Places by the Lords there and their Officers. If a Pirate takes Goods upon the Sea and ſells them, the Property is not thereby changed, no more than if a Thief had ſtolen and ſold them at Land; which *Law* has very near relation to the *Atinian Law*, *De Uſu Captione*, by which the Plea of Preſcription was not to avail in things ſtolen, Our Law Books are full of Inſtances of this kind. Matters Criminal in Pirates were not puniſhable formerly by the Common Law, as appears by the Preamble of the Statute of 28 *Hen.* 8. *cap.* 15. but the ſame was determined and adjudged by the Admiral, after the Courſe of the Civil Law; but now by the Force of the ſaid Act, the ſame is enquir'd of, heard and determined according to the Courſe of the Common Law, as if the Offence had been committed at Land, *Stat.* 11. & 12. *cap.* 7. All Piracies, Felonies and Robberies committed on the Sea, or in any Haven, River, Creek or Place where the Admiral has Juriſdiction, may be try'd at Sea or upon the Land in any of his Majeſty's Iſlands, Plantations, Colonies, *&c.* by Commiſſioners appointed for that Purpoſe, by Commiſſion under the Great Seal of *England*, or Seal of the Admiralty; who may commit ſuch Offenders, and call a Court of Admiralty thereupon, to conſiſt of 7 Perſons at the leaſt; for want of 7, any three of the Commiſſioners may call others, and theſe Judges have Power of Life and Death, Goods and Chattles. If any Natural born Subjects, or Denizons of *England* commit a Robbery upon any of Her Majeſty's Subjects at Sea, under Colour of a Commiſſion from any Prince or State whatſoever, 'tis Piracy; and if any Maſter of a Ship or Mariner turns Pirate, or gives up his Ship to Pirates, or combines to yield up, or runs away with any Ship, or lays violent hands on his Commander, or endeavours to raiſe a Mutiny in the Ship, 'tis Piracy, and he ſhall ſuffer accordingly. By an Act paſt in the Reign of *William* III. all Perſons, who after the 28th of *September* 1700. ſhall ſet forth any Pyrate, (or be aiding and aſſiſting to any ſuch Pirate) committing Piracy by Land or Sea, or ſhall conceal ſuch Pirate, or ſhall receive any Veſſel or Goods Piratically taken, ſhall

27 *E.* 3. *c.* 13.

Sigon. de Jure Rom. l. 1. *c.* 11.

Mich. 13. *Jac. in B. R. Sir* Rich. Bingley's *Caſe* 1. *Rolls Abridg. Fol.* 530. *Grotius de Jure Belli & Pacis.* lib. 3. *c.* 9.

be adjudged acceſſary to ſuch Piracy, and ſuffer as Principals, according to the Statute of 28 *Hen.* 8. which is by this Act declar'd to be in force. Any Ship having made a good defence againſt Pirates, if any of the Officers and Seamen are kill'd or wounded, the Judge of the Admiralty, or his Surrogate in *London*, or the Mayor or chief Officer in the Out-Ports, aſſiſted by 4 Subſtantial Merchants, may by Proceſs out of the ſaid Court, Levy upon the Owners of ſuch Ship, *&c.* a Sum not exceeding two *per Cent.* of the Value of the Freight, Ship and Goods ſo defended, to be diſtributed among the Officers and Seamen of the ſaid Ship, or Widows and Children of the Slain. Every Captain or Maſter of a Ship is to pay 10 *l.* for every Veſſel of 100 Tuns, and 15 for every Veſſel of a greater Burden, to the firſt Diſcoverer of any Combination for running away with, or deſtroying any ſuch Ship at the Port where the Wages are to be paid. All Seamen, Officers and Sailors who ſhall deſert the Ships or Veſſels, wherein they were hired for a Voyage, ſhall forfeit their Wages. If any Maſter of a Merchant-Ship or Veſſel, ſhall after the 29th of *September* 1700 during his being abroad, force any Man aſhoar, or wilfully leave him behind, or refuſe to bring all his Men home again who are in a Condition to return, he ſhall ſuffer 3 Months Impriſonment. This Statute paſt in King *William*'s Reign, but the time of its being in Force is expir'd, as will be mentioned hereafter. The Statute of 28 *Hen.* 28. does not alter the Offence of Piracy, or make it Felony, but leaves it as it was before this Act. Felony only by the Civil Law gives a Mean of Tryal by the Common Law, and inflicts the Pains of Death, as if the Offenders had been attainted of any Felony done upon Land: It muſt be mentioned in the Indictment that the Fact was committed *Super altum Mare* upon the High Sea. A Pardon for all Felonies extends not to this, unleſs it be particularly nam'd; tho' the Criminal forfeit Lands and Goods; yet there is no Corruption of Blood; no *Acceſſaries* to this *Offence* can be try'd by this *Statute*, but muſt take his Tryal by the Civil Law; *Clergy* is not allow'd to the *Offender* on this Statute.

9 E. 4. 28. *cited in* Coke's 3. *Inſtit.* Fol. 112.

All Ports, not only the *Town* but the *Water*, is *Infra Corpus Comitatus*, and there the Common Law prevails. If a Robbery be committed in a Creek or Port, it has been conceiv'd that *Clergy* is allowable upon the Statute of 28 *Hen.* 8. But if a Piracy be committed on the Main Sea, there no Clergy is allowable: Nor will it perhaps be allowable for Robberies committed upon Great Rivers, which may be look'd upon as Common Highways within the Realm: And ſo it was rul'd in the Caſe of *Hyde*, who with

Sir Francis Moore 756. 1 Jac. Par. 1044.

with ſeveral other Perſons coming one Night in a Boat upon the *Thames*, and under Colour of Preſs-Maſters, entring the Ship of one Captain *Slue*, and robbing her, being afterwards taken and try'd at the *Old-Baily*, 22 *C.* 2. by the Opinion of the Major part of the Judges there preſent, *Clergy* was denied him; and in the ſame manner it was rul'd by Sir *Lionel Jenkins*, and the reſt of the Judges. If a Man commits a Piracy at Sea, and brings the Goods into a County in *England*, he cannot be indicted upon the Statute, for that the original Taking was not Felony, of which the Common Law took Cognizance. A Man being taken on Suſpicion of Piracy, and a Bill prefer'd againſt him, if the Jury find *Ignoramus*, and the Court of Admiralty will not diſcharge him, the Court of *King's-Bench* will grant a *Habeas Corpus*, and either Diſcharge or Bail him, but if the Court ſuſpects the Party is guilty, they may perhaps remand him: For where the Admiralty have Legally an *Original*, the Courts above will be well informed before they will meddle. If the Court of Admiralty deny the Plea of the *Statute* of *Limitation*, *Prohibition* will be granted, and it will go if they receive the *Plea*, but will not give Sentence accordingly. If a Man be in Cuſtody for Piracy, and any one aſſiſts him to make his Eſcape, tho' the Offence be committed at Land, as the Court of Admiralty has Juriſdiction to puniſh the *Principal*, it may likewiſe proceed againſt the other Offender, as an Acceſſary to the Piracy: But if a Priſoner be reſcu'd from an Officer of theirs, they can only examine the Cauſe, but cannot proceed criminally againſt the Offender. Anciently when Merchants and Mariners were ſpoil'd of their Goods at Sea, the King generally iſſu'd out Commiſſions under the Great Seal of *England*, to take Notice of ſuch Depredations and Robberies, and ſo award Damages according to the Laws and Cuſtoms of *England*, and according to the Law of Merchants and of the Marine, *ſecundum Legem & Conſuetudinem Angliæ*, *ſecundum Legem Mercatoriam & Legem Maritimam*; and at this time 'tis uſual to try Pirates by ſuch ſpecial Commiſſions: Tho' 'tis certain that to aſſault and take under any Pretence whatſoever, the Ships and Veſſels of the Subjects of any Prince or State in Amity with the Crown of *England*, be downright Piracy; yet in ſome Caſes the Circumſtances may alter the matter, and ſo it was adjudged in the Caſe of *Carew*, the ſame Man to whom the *Letters* of *Marque* inſerted in this Treatiſe, were granted with *Turner*: But *Carew*, without *Turner*, deputed ſeveral Perſons to put in Execution the aforeſaid Commiſſion of *Repriſals*; and they having accordingly done it after thoſe Letters were mortify'd by the Treaty of *Breda*, called in by Proclamation, and ſuperſeded under the Great Seal of *England*, thoſe

28 *Eliz. Butler's Caſe cited* 3. *Inſtit.* fol. 113.

Marſh's Caſe, 13 Jac. *in B. R.* 3 *Bulſtrode*, f. 27.

Hardreſ. 1502.

Yelverton 134, 135. *Scading's Caſe*. *Terch Verſ. Harriſon B. R. Stiles* 171. 340.

thoſe Perſons were indicted for Piracy; however the ſame may not be deem'd to be a Felonious and Piratical Spoliation, but a *Caption* in order to an *Abjudication*, which not being made by the Captain and his Mariners, *Animo depradandi*, tho' the Authority was deficient, they were acquitted.

Sess. Admir. Feb. 18 1680. *Case of* Compton, Jivither *Val.*

We ſhall in the next place inſert the Method to be obſerv'd by Her Majeſty's Men of War and Privateers, in examining and ſecuring Priſoners taken on Board Privateers and Pirates, *&c.* by an Order of Counſel in his late Majeſty King *William* the IIId's Reign, *Feb.* the 3d. 1694. which has been confirm'd by his Royal Highneſſes Orders.

The Method to be obſerv'd by the Commanders of Her Majeſties Men of War and Privateers, in examining and ſecuring the Priſoners taken on Board Privateers *and* Pirates.

WHereas His late Majeſty was pleaſed, by His Order in Council, dated *February* 3. 1694. to direct that the ſeveral Particulars following ſhall be ſtrictly complied with by the Commanders of his Men of War and Privateers, in Order to the more eaſie Conviction of Traytors and Pirates, being his Majeſty's Subjects, taken in Privateers belonging to the Enemy; you are therefore required and directed to take all poſſible care in the due and effectual Execution thereof, *viz.*

I. When you ſhall happen to take any Privateer belonging to the Enemy, you are carefully to examine all Priſoners which you ſhall ſuſpect to be *Engliſh*, *Scotch* or *Iriſh*, ſo ſoon as they are taken; and that ſuch of them as own their Country, do ſet their Hands or Marks to their Examinations, in the Preſence of Witneſſes.

II. If there be any Perſon on Board, either of the Ship's-Crew, or among the Priſoners, that can ſpeak to the Place of the Nativity, or uſual Habitation of any Priſoners, or their Parentage, you are to cauſe their Declaration to be taken in Writing, and ſigned by them, and that the uſual Place of abode of ſuch Witneſſes, when on ſhoar, be deſcribed in the Declaration.

III. You

III. You are to take eſpecial Care to make Choice of ſuch three or four of your Ships Crew as you ſhall think moſt proper, and order them to take particular Notice of ſuch Priſoners as ſhall either own themſelves to be born within her Majeſty's Dominions, or are ſuſpected to be ſo by their Language, or any other Circumſtances, to the End that they may upon a Trial be able to ſpeak poſitively that ſuch Priſoners were taken in ſuch a Ship, in ſuch a Place and Manner, as the Caſe ſhall happen, and that they be directed to take ſome Notes in Writing of the Priſoners Names, and of Circumſtances, for the help of their Memory.

IV. When you take any Privateer from the Enemy, you are to take ſpecial Care to ſecure Papers, and particularly the Commiſſion, and the Roll *de l' Equipage*, or Liſt of Seamens Names, and that three or four of your Ships Crew take particular Notice of ſuch Commiſſion and Papers, and of the Seizure and Delivery of them, and ſet their Mark upon them, ſo as that they may be able to ſpeak to the Identity of the ſame upon occaſion, and you are as ſoon as poſſibly may be, to tranſmit the ſaid Papers to the Judge of the High Court of Admiralty at *Doctors-Commons*.

V. You are alſo to take ſpecial Care, that ſuch Priſoners as are found or ſuſpected to be her Majeſty's Subjects, be ſet on ſhore as near to the Port of *London* as conveniently may be, and without being ſuffered to ſpeak with any Perſon, immediately carried before a Magiſtrate to be examined, together with three or four of the Crew choſen by you for that Purpoſe, and that ſuch Magiſtrate examine the Witneſſes upon Oath relating to the Time, Place, and Manner of the Priſoners Nativity, Habitation, Reputation, or Parentage, or any Circumſtances whereby it may be preſumed that they are her Majeſty's Subjects, and that the ſaid Examination be ſigned by the reſpective Witneſſes, and that the Priſoners be ſeparately examined, in order to make a Diſcovery to what Country they do belong, and that they give a particular Account where they have lived or ſpent their Time, for as many Years as to the Magiſtrate ſhall ſeem requiſite, and that if they refuſe to anſwer or ſign their Declaration, the ſame be certified to the Magiſtrate, and alſo what Language they then ſpoke.

VI. In

VI. In Caſe upon your taking any Privateer that no Commiſſion be found, you are to cauſe all the Priſoners to be carried before a Magiſtrate ſo ſoon as they are brought on ſhore, with ſuch Witneſſes as you ſhall think requiſite, who can ſpeak to the Manner of the Capture and the Identity of the Priſoners, and that the Ship was taken Armed in like manner, and that thereupon all the Priſoners be committed as Pirates.

VII. That in all Examinations it be expreſſed whether there was Fighting or not, and in what Manner it was; and you are to cauſe all Examinations whatſoever to be forthwith tranſmitted to the Court of Admiralty.

Tho' 'tis unqueſtionable that it is for the Intereſt as well as the Honour of all Princes to ſuppreſs Pirates, and not to ſuffer them to have any Refuge or Retreat within the Extent of their Dominions, the *French* Admirals finding their Aſſiſtance to be very uſeful in their Attempts upon the *Weſt Indies* in the laſt War, and particularly the Baron *de Pointi* in his Expedition againſt *Carthagena*, to the perpetual Infamy and Diſhonour of their Arms, they entred into Treaties and divided the Plunder with theſe common Enemies of Mankind; whereas the *Engliſh*, to their everlaſting Glory, have always been at a conſiderable Charge for the Reduction of thoſe inhuman Wretches, which are the Bane of all Human Society, and the greateſt Plague of Trade and Commerce; and I my ſelf have ſeen in *France* during the laſt Peace ſeveral of theſe *Engliſh* Renegado's, who having deſerted from our Men of War and Merchant Men in *Weſt India* Voyages, there joined themſelves to the other Ruffians and Vagabonds of all Nations who were there before them, and ſo ruined vaſt Numbers of our Merchants, by ſeizing and plundering their Ships, and frequently committing the greateſt of Cruelties and Barbarities upon ſuch poor Mariners as had the Misfortune to fall into their Hands, tho' formerly they had ſerved in the ſame Quality themſelves, as they now do in a much worſe.

CHAP.

CHAP. XII.

Some ſhort Reflections upon a Clauſe in a late Act of Parliament for diſpenſing with part of the Navigation Act during this War.

HAving thus collected out of the moſt approved Law Books and others what Reports and other Paſſages I thought might be moſt pertinent for the Matter in hand, I ſhall not here proceed, as I at firſt intended, to make a large Enquiry into the preſent State and Management of the Navy, and deſcend to a particular Enumeration of all the advantageous Improvements of which it is capable, but reſerving what I have to ſay in particular concerning the Navy of *England* for the Subject of an Appendix, with which I intend to cloſe this Treatiſe, I ſhall only here ſay by the by, that 'tis my humble Opinion that we have hitherto ſucceeded very ill in the Methods propoſed for the Improvement of Trade and Navigation in general, and more eſpecially for the Improvement of the Royal Navy, in which it is moſt certain that the Strength and Glory of the *Engliſh* Nation does conſiſt.

Nor do I believe that I ſhould be much blam'd by thinking and underſtanding Men if I ſhould ſay that the Navigation Act it ſelf is deficient in ſeveral Points, and that ſome Clauſes of it are detrimental to and deſtructive of the Intereſt of *England*; and particularly that which obliges the Maſter and Three Fourths of the Mariners of all Ships importing certain Commodities into *England* to be *Engliſh*; and in my humble Opinion the laſt Parliament did very wiſely in diſpenſing with part of that Act, and allowing one half of the Mariners ſailing in Merchant Ships to be Foreigners, according to the following Clauſe of an Act concluded laſt Seſſions.

AND whereas by the Laws now in force the navigating of Ships or Veſſels, in divers Caſes, is required to be the Maſter, and Three fourth Parts of the Mariners at leaſt, being Engliſh, *under divers Penalties and Forfeitures therein contain'd: And whereas great Numbers of Seamen are employed in her Majeſty's Service for the Manning of the Royal Navy, ſo that it is become neceſſary during the preſent War to*

diſpenſe with the ſaid Laws, and to allow a greater Number of Foreign Mariners, for the carrying on of Trade and Commerce. Be it therefore enacted by the Authority aforeſaid, that during the preſent War, and no longer, the Number and Proportion of Mariners to ſail in ſuch Ships or Veſſels, which by any Law now in force are limited to the Maſter and three Fourths of the Mariners, to be Engliſh, *ſhall be enlarged to the Maſter, and One Moiety of the Mariners, at leaſt to be* Engliſh: *And that it ſhall and may be lawful to and for the Owner or Owners of any ſuch Ship or Veſſel to navigate the ſame with ſuch Mariners, whereof the Maſter and One Moiety of the Mariners at leaſt ſhall be* Engliſh, *without incurring any Penalty or Forfeiture for ſo doing, and without ſubjecting the Goods and Merchandize laden on ſuch Ship or Veſſel to any other Cuſtoms, Duties, or Payments, than ſhould have been paid for the ſame, in caſe the ſame Ships or Veſſels had been navigated by a Maſter, and three Fourths of the Mariners, being* Engliſh; *any former Law or Statute to the contrary thereof in any wiſe notwithſtanding.*

It were to be wiſh'd that this Clauſe were not only intended to ſubſiſt during the preſent War, but that it were perpetual; for tho' it be true that it would be a real Diſadvantage to *England* to ſuffer Foreign Merchants, Maſters and Mariners to enrich themſelves by the *Engliſh* Trade, if what they acquire was to be tranſported out of *England*, 'tis on the contrary evident, that as the Naval Force of *England* is its principal Defence, the more numerous the Mariners are, the ſtronger the Nation is; and the only way to augment the Number of Mariners, is to encourage Foreigners to come into our Service.

Nor could this be of any Prejudice to the Nation, but on the contrary a real and conſiderable Advantage; becauſe,

1*ſt*, By entertaining Foreign Mariners we leſſen the Strength of other Nations, and augment our own, in the moſt ſenſible Part.

2*dly*, We leſſen the Home Conſumption of other Nations, and advantageouſly augment our own.

Nor will it be of any Force to object, that Foreigners being in our Service will get our Money, and impoveriſh our own Sailors; that would indeed be true, if we ſuffer'd the *Engliſh* Trade to be driven in Foreign Bottoms, or by Ships belonging to Owners and Maſters not reſiding in *England*; but as long as the Maſters and Owners are *Engliſh*, reſiding in *England*, let the Mariners be what they will, except they be actually ſettled in ſome Foreign Country, they'll never do us any mighty Injury by carrying great Matters out of the Nation. For, 1*ſt*, Few

1*ſt*, Few Seamen are ſo good Husbands as to ſave much of their Wages.

2*dly*, Where Seamen find Encouragement, there they'll ſtay, be where it will; and if the Encouragement they find in *England* invite them to take up their Abode there, we have a double Advantage.

1*ſt*, We have the Benefit of their Labour, I mean of what they earn by their Labour. And,

2*dly*, The Benefit of their Service, by which our Strength is encreaſed, and the Publick Safety ſecured.

But of this more in the aforeſaid Appendix, where it will come better in, what I have here ſaid being only a Word by the way.

CHAP. XIII.

Containing a curious and authentick Collection of all the Treaties concluded ſince the Year 1600 *between the Princes, States and Sovereigns of* Europe, *and other Parts of the World, concerning the* Marine.

HAving in the precedent Pages ſufficiently treated of the Dominion and Laws of the Sea in general, and freely delivered my humble Opinion about ſome particular Matters in relation to the *Engliſh* Navy, I thought it convenient to cloſe up this Treatiſe with a genuine Collection of all the Marine Treaties concluded ſince the beginning of the laſt Century, which being hiſtorical and authentick, I humbly preſume that the Peruſal thereof cannot miſs of being pleaſant and inſtructive both together.

The firſt Piece of that nature that occurs is, that memorable League into which the States General enter'd with the Republick of *Lubeck* in the Year 1613, which was ſolemnly confirmed about Two Years and Eight Months afterwards, and ſtrengthen'd by the Acceſſion of moſt of the other Hanſe Towns, moſt certainly upon the following Occaſion.

The K. of *Denmark* having ſome Time before laid heavy Taxes upon their Ships ſailing thro' the Streights of the *Sound*, *&c.* they found theſe new Impoſitions not a little detrimental to their Navigation, and the Northern Traffick being none of the moſt inconſiderable Branches of the *Dutch* Trade, as well as of that of the Hanſe Towns, they ſoon began to let their Uneaſineſs appear, and ſo negotiated their Buſineſs among themſelves, that the Town of *Lubeck* firſt brought the Buſineſs to a Concluſion, by means of the following Treaty with the States General, in which, tho' not one Word be ſaid of his *Daniſh* Majeſty, that Prince eaſily penetrated into the Deſign of that Combination, and the new Confederates being on the other ſide apprehenſive of his Reſentments, it was thought convenient to fortify the Confederacy, by receiving into it ſeveral of the other Hanſe Towns, who judged it their Intereſt to join with the others, with a Deſign with their united Forces to enter into a vigorous War with the King of *Denmark*. whoſe late Impoſitions they were reſolved not to pay; for tho' they pretended that their Alliance was only defenſive, they certainly intended to reduce that Prince to a Neceſſity of aboliſhing the Taxes with which he had then burthen'd them, as may be eaſily gather'd from the very Words of the Treaty, as it here under follows.

ARTICLE I.

A *Treaty between the States of the united Provinces of the Low Countries and the Town of* Lubeck, *concluded in the Year* 1613.

AS of ancient Time the Honourable the Common-Councils of the Free and Imperial City of *Lubeck*, and ſeveral other Towns ſituate upon the Northern and Eaſtern Seas, have been in Union and Amity with divers Towns of the free united Provinces, for the Defence and Vindication of the Liberty of Navigation, Trade and Commerce, and of the Rights and Privileges belonging thereunto. And as now their High Mightineſſes the States General of the ſaid united Provinces, together with Meſſieurs the Burgomaſters and Common-Council of the Town of *Lubeck*, have found it convenient and neceſſary in the preſent Conjuncture to negotiate and treat about the renewing of the aforeſaid Union and Amity by the noble Deputies Meſſieurs *Henry Van Brienen* the Elder, Lord of *Sinderen*, and *Dieck Baes* Counſellor, Deputy from the noble and mighty

mighty Lords the States of *Holland* and *Weſt Frieſland*, ancient Burgomaſter of the City of *Amſterdam*; *Jacob Magnus* Lord of *Neliſſant*, ancient Burgomaſter of the Town of *Middleburgh* in *Zeland*; *Juſtus van Ryſenburgh* Lord of *Ryſenburgh*; *William van Velſen* ancient Burgomaſter of the Town of *Leeuwarden*; *Arent Gereitſz* Burgomaſter of the Town of *Swelle*, and *Abel Coenders van Helpen* Lord of *Faen* and *Cantes*, and *Henry Brookes* Burgomaſter, together with *Martin Nordanus* Syndic of the Town of *Lubeck*, who after ſeveral Conferences and Aſſemblies, and Reports made by the Deputies of either Party of the Progreſs they had made, having duly conſidered the whole, the ſaid States General and Burgomaſters, and the Common-Council of the ſaid Town of *Lubeck*, have at laſt agreed together, treated, conſented, and concluded upon the Points and Articles following.

I. In the firſt place, That this Union ſhall not be to offend any, but only for maintaining and preſerving the Freedom of Navigation, Commerce and Traffick in the Northern and Eaſtern Seas, the ſole and only Intent thereof being, that the reſpective Citizens and Subjects of the Union, according to the Law of Nations, and the Liberties, Rights and Privileges granted to them in the aforeſaid Northern and Eaſtern Seas, may accordingly enjoy the ſame without any Let or Moleſtation, ſo that the Citizens, Inhabitants and Subjects of the ſaid Union may reciprocally and conjointly defend and protect each other againſt ſuch as would trouble and diſturb them, ſo that the manifold Difficulties which are very detrimental and burthenſome to the common Trade and Navigation of their Citizens, Inhabitants and Subjects, may be removed, and that the ſame may be maintained and augmented throughout the Empire and all *Germany*, for the Advantage and Benefit of the Union.

II. In ſo doing this Union ſhall not be prejudicial to the Friendſhip of his Imperial Majeſty, nor the holy Empire, nor to that of their Royal Majeſties of *France* and *Great Britain*, and the Evangelical Electors and Circles of the holy Empire, and which has been maintained with their Lordſhips the States. And alſo the ſaid Town of *Lubeck* is willing to remain in the Obedience it owes to his Imperial Majeſty, and none of the Leagues, Rights, Statutes and Treaties they have together, ſhall be chang'd or weaken'd by theſe Preſents, but ſhall remain in their entire Force and Power, the whole nevertheleſs *ſalvo præſenti fœdere*.

III. Thoſe

III. Thoſe of the Union ſhall faithfully and ſincerely obſerve the Articles, and confirm them by Oath.

IV. The States General ſhall manage this Union to the beſt Advantage of the common Cauſe, but however in ſuch manner as the Common-Council of *Lubeck* may have a Vote, and freely give a Voice in all the Deliberations, for which Purpoſe a Perſon from that Town ſhall always reſide at the *Hague*, or ſuch other Place as the States General meet at, to deliberate with them on the Behalf of the Town of *Lubeck*, as well concerning this Union, as the Things depending upon it; and the States General may depute ſome Perſon to reſide at *Lubeck*, the better to deliberate with the Common-Council of that Place, and take Meaſures for putting in Execution the Reſolutions that are taken; provided always, that if any other of the *Hanſe Towns* enter into the Union, it may be examined and determined whether it may not be fit that the ſaid Deputy ſhould reſide elſewhere.

V. Thoſe of the Union ſhall contribute towards the Charges, according to the Obligations into which they are already enter'd, in order to furniſh Ships, Foot and Horſe, and every thing belonging thereunto, which ſhall be Friendly entertain'd in good Order, and in ſuch Number, and at ſuch Times, as ſhall be found neceſſary, and ſhall be tranſported into ſuch Places as ſhall be judged convenient.

VI. And if ſuch as interrupt Commerce and Navigation, after having been amicably required to deſiſt, refuſe againſt Juſtice and Reaſon to do it, thoſe of the Union ſhall defend themſelves vigorouſly againſt them, ſince the Intent thereof is to ſecure the Liberty of Commerce and Navigation.

VII. And if the Conſequence thereof ſhould be a War, thoſe of the Union ſhall recall their Subjects from the Service of the adverſe Party, on Pain of Death and Confiſcation of their Eſtates; nor ſhall it be allowable to procure or ſend to the adverſe Party Money, Troops, Ships, Ammunition, Arms, Proviſions, or other Things of that nature, on Pain of Corporal Puniſhment; and the utmoſt Endeavours ſhall be uſed to prevent their receiving ſuch Succours from other Places

VIII. And if the adverſe Party ſhould arreſt the Subjects Perſons, Ships, Merchandizes, or Debts of thoſe of the Union, or ſhould ſurprize them at Sea, and carry them off, Orders ſhall be given to the

the Towns and Countries of the Union, to make Reprizals, and mutually to aſſiſt each other on that Occaſion.

IX. The Ships of thoſe of the Union may freely, and without any Impediment, enter into the Harbours and Rivers of each other to provide themſelves with Neceſſaries, or to refit, but no Violence ſhall be uſed, and they ſhall thankfully pay for what they take.

X. The Subjects of the Union ſhall in all their Countries enjoy the Privileges of a Citizen, and even the Right of Succeſſion, which ſhall deſcend without Diſtinction of Religion, as that is practis'd and permitted in the *Holy Empire*, but every one ſhall behave himſelf as a Citizen, and ſhall ſubmit and conform himſelf to the Laws of the Place.

XI. None of thoſe of the Union ſhall enter into any Treaty, or be reconciled to the Enemy, without the Conſent of the others, nor do any other thing that may be prejudicial to the others, but on the contrary all the Members ſhall do their Endeavours to keep their Citizens, Inhabitants, Subjects, Ships, Merchandizes, and Effects, free from all Damages, and to maintain them in the Poſſeſſion of their Liberties and Privileges aforeſaid without any Lett or Moleſtation.

XII. So that no Peace or Truce ſhall be made with the Enemy, but with common and reciprocal Deliberation and Conſent of all the Members.

XIII. This League ſhall remain in force the Space of Fifty Years, which Term, with the common Conſent, may be prolong'd; but if during the ſame, or even after the Expiration thereof, any of the Union receive any Damage by reaſon of it, or of any thing relating to it, whether by Sea or Land, they ſhall mutually aſſiſt one another againſt all Perſons whatſoever.

XIV. If any Potentate, Country or City, and eſpecially if any of the other *Hanſe Towns* deſire to enter into this Union, they ſhall be receiv'd upon reaſonable Conditions.

In Witneſs whereof Two Copies of theſe Preſents have been made, and confirmed by Oath, and ſealed with the Seals of their High Mightineſſes the States General, and of the ſaid Town of Lubeck, *and ſigned by their reſpective Clerk and Syndic, of which Copies each Party has retained one. Done in the Month of* May *in the Year* 1613, *and underwritten,*

By Order of the States General,

Sign'd AERSSEN.

And by Order of the Honourable the Common-Council of the Town of Lubeck,

Sign'd MARTIN NORDANUS,
Syndick of the Republick of Lubeck.

Sealed with the Seal of the States General in Red Wax, and with that of the City of Lubeck *in Yellow Wax, hanging by Two Cords of Red and Blue Silk.*

Here follows the Second League concluded between the *Dutch* and the Republick of *Lubeck*, together with ſeveral of the other Hanſe Towns, which, tho' it be much to the ſame Effect with the former, is of too great Importance not to deſerve a Place in this Collection.

ARTICLE II.

A Treaty of Alliance between the united Provinces of the Low Countries and the Hanſe Towns, concluded in the Month of December 1615, *in Conſequence of that concluded with the Town of* LUBECK *in the Year* 1613.

AS not only the Hanſe Towns of the Eaſt, ſituate upon the Eaſtern Sea, together with thoſe upon the *Wexel*, the *Order*, the *Elbe*, and the *Weſer*, and the Neighbourhood thereof, but likewiſe ſeveral Towns of the Low Countries, ſituate upon the Northern and Southern Seas, as alſo thoſe ſituate on the *Maeſe*, the *Wale*, the *Rhine*, and the *Yſſel*, and other Streams and Rivers flowing into

into the Northern and Southern Seas, have been comprehended in the common League of the Hanſe Towns, and have remained in a firm Union and Friendſhip with one another, and have obtain'd of the neighbouring Kingdoms and Countries many common Liberties, Privileges and Prerogatives, which by their united Counſels, Strength and Forces, and by the defenſive Arms of ſeveral of them, have been defended and maintained. And as the Hanſe Towns of the Low Countries have in latter Times, by reaſon of a tedious War, and other accidental Miſunderſtandings, been hinder'd from aſſiſting at the general Meetings of the Hanſe Towns, and by reaſon of their own Burthens have not been able to bear the Charges of the common League, which ſome of their Neighbours have taken to be a Rupture and Separation, and which has occaſion'd ſeveral uneaſy Burthens upon the Freedom of Traffick, Commerce and Navigation, which ought to be remedy'd, that has put a freſh Obligation upon the Parties concern'd to think of Ways and Means by which, with the Divine Aſſiſtance, theſe Inconveniences may be remov'd, and the aforeſaid Liberties and common Rights and Prerogatives may be re-eſtabliſh'd and confirm'd. And as in this Succeſſion of Time the greater part of the Hanſe Towns do look upon their High Mightineſſes the States General of the united Provinces as Members of their State, and not judging it convenient to labour ſeparately towards the ſaid Re-eſtabliſhment, but in Conjunction with their High Mightineſſes, ſince by that Means the Treaty that ſhall be concluded will be more uſeful, more profitable, and more convenient, there having been of late Years ſeveral Deliberations upon that Subject, and divers Communications by Writing and by Deputies, upon which the Burgomaſters and the Common-Council of the Free and Imperial City of *Lubeck* did treat with the aforeſaid Lords the States General in the Month of *May* in the Year 1613. FOR THESE CAUSES, after mature Deliberation, the ſaid Lords the States General have by their Deputies, together with thoſe of the Hanſe Towns of the Eaſt, renewed the ancient Friendſhip and Union that was between them; and in order to unite themſelves yet more cloſely, have concluded and agreed upon the Points and Articles following.

I. In the firſt place, That this Union ſhall not be offenſive with regard to any, but only for maintaining and preſerving the Freedom of Navigation, Commerce and Traffick, in the Northern and Eaſtern Seas, and ſhall not be any otherwiſe underſtood, ſo that thoſe of the Union reſpectively, and their Citizens and

Subjects, may, without any Impediment, enjoy the Benefit of the Laws of Nations, and all the Liberties, Rights, Privileges and Cuſtoms, uſual in the aforeſaid Northern and Eaſtern Seas, and in the Rivers, Streams, and other Currents. All theſe of the Union ſhall defend conjointly and protect their Citizens, Inhabitants and Subjects, who may be by unjuſt Means moleſted by others, and to whom Commerce may be forbidden, or upon whoſe Merchandizes any particular Impoſt may be laid in going or coming, to the end that the ſaid Impediments and redoubled Impoſts, ſo prejudicial to Commerce and Navigation, may be aboliſhed, and that the ſame may be freely carried on throughout the holy *German* Empire, and may be increaſed for the Benefit and Advantage of thoſe of the Union.

II. Wherefore this Union ſhall not be prejudicial to the Friendſhip contracted with his Imperial Majeſty and the holy Empire, with their Majeſties of *France* and *Great Britain*, and with the Evangelical Electors and Circles of the holy Empire, and which has been hitherto maintained with their Lordſhips the States General, and likewiſe with the honourable Hanſe Towns, who have been till now under the Protection and Obedience of his Imperial Majeſty and the holy Empire, and every Town that has a mediate Authority, all the Leagues, Rights, Statutes, Ordinances and Obligations, ſhall remain in their full Force, the whole however *ſalvo præſenti fœdere.*

III. Thoſe of the Union ſhall ſincerely obſerve and maintain the preſent Articles, which they ſhall confirm by Oath.

IV. Their Lordſhips the States General ſhall manage this Union to the beſt Advantage of all the Members thereof, but in ſuch a manner however that in all Undertakings each Party ſhall freely give their Voice, for which End there ſhall always be a Reſident at the *Hague*, or at any other Place where the ſaid States General ſhall meet, from the Hanſe Towns of the Eaſt, who ſhall give his Advice in what concerns the Union; and their ſaid Lordſhips the States General may appoint another Perſon to reſide at *Lubeck*, or at ſuch other Place as Neceſſity or Occaſion ſhall require, to the end that the mutual Advices and Opinions may be the more eaſily communicated, and what ſhall be neceſſary may be effected.

V. Thoſe of the Union ſhall keep in good Order, and well provided, at their Expences, the Ships, and Troops of Foot and Horſe, and all Things belonging thereto, according to the Contributions which each is obliged to furniſh, and for the Time that ſhall be judged convenient, and ſhall cauſe them to repair to the Places whither it ſhall be thought neceſſary to ſend them, according

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ing as the Name of every Hanſe Town of the Union and the Quota's of the ſaid Contributions are contained in the particular Writings.

VI. And in caſe it happens that thoſe that would cauſe any Impediment to be given to Navigation and Commerce againſt the aforeſaid Privileges and Treaties agreed to, will not deſiſt, after having been thereto amicably required, and according to the Rules of Juſtice, Reaſon, and Equity, thoſe of the Union ſhall proceed againſt them defenſively, the Deſign of the Union being only to aſſure the Liberty of Commerce and Navigation. And if it ſhould happen that any of the Towns of the Union ſhould, becauſe thereof, or by reaſon of any particular Privilege, ſuffer any Damage, the ſaid Town ſhall be forthwith aſſiſted, till Liberty is obtain'd, and Reparation of Damage made.

VII. And if by the common Conſent War ſhould break out, thoſe of the Union ſhall command their Inhabitants and Subjects, whether Seamen or Soldiers, that are in the Service of the adverſe Party, to abandon the ſame, under Pain of Death and Confiſcation of Effects. Nor ſhall it be allowable to ſend from the Towns and Countries of their Obedience to the ſaid adverſe Party Money, Troops, Ships, Ammunition, Arms, Proviſions, or ſuch other Things, but on the contrary that ſhall be forbidden, under Pain of Corporal Puniſhment, and all Endeavours ſhall be us'd, as far as 'tis poſſible, to hinder others from furniſhing them.

VIII. And in caſe alſo that the adverſe Party ſhould arreſt the Perſons, Ships, Merchandizes, and Debts of the Subjects of thoſe of the Union, or if they are ſurpriz'd at Sea, or taken and carry'd off, they ſhall make Repriſals in the Countries of thoſe of the Union, and in that Caſe they ſhall mutually aſſiſt and defend one another.

IX. The Ships of thoſe of the Union may frequent the Rivers and Harbours of each other without any Lett or Hindrance, and there refit their Veſſels, and provide themſelves with all manner of Neceſſaries, upon Condition that no Violence be us'd, but that they thankfully pay for every thing they take.

X. The Subjects of thoſe of the Union ſhall every where enjoy in the Towns and Countries thereof the Rights of Citizens, and ſhall inherit ſuch Succeſſions as belong to them, according to the Cuſtoms of the Place, without any Diſtinction of Religion, as 'tis practis'd and permitted in the *Holy Empire*, but every one ſhall behave himſelf as a Citizen, and ſhall ſubmit and conform himſelf to the Laws of the Place.

XI. None of thoſe of the Union ſhall make any Agreement with the adverſe Party without the Conſent of the others, nor ſuffer any

thing to be done to the Prejudice and Damage of the others, but on the contrary ſhall endeavour to maintain the common Tranquillity, and to keep each others Citizens, Inhabitants, Subjects, Ships, Merchandizes and Effects, free from all Moleſtation, and ſecure to them the Enjoyment of the Liberties and Privileges aforeſaid.

XII. A Peace or Truce with the adverſe Party muſt be concluded with the common Advice and Conſent of all, and not otherwiſe.

XIII. This League ſhall remain in force Twelve Years, and ſhall be prolong'd with the common Conſent. But if any of thoſe of the Union, during the ſaid League, or even after the Expiration thereof, ſhould be attack'd or injur'd by reaſon of it, or of any thing in relation to it, all the Members ſhall mutually aſſiſt one another.

XIV. If any Potentate, Country or Town, deſire to enter into this League, they ſhall be receiv'd with the common Conſent upon reaſonable Terms.

In Witneſs whereof divers uniform Copies of theſe Preſents have been drawn up for their High Mightineſſes and the Hanſe Towns, which ſhall be confirm'd by Oath, and by the Appoſition of the reciprocal Seals, after that a Report thereof has been made. Concluded in the Month of December *in the Year* 1615.

Theſe Leagues having for the moſt part wrought the deſired Effect, and deterred the Enemies of the Hanſeatick Liberties from proſecuting the Deſigns that were ſuſpected to have been form'd againſt them, Things continu'd much in the ſame Condition till the Year 1640, or thereabouts, that the Hanſe Towns being again diſturb'd with freſh Jealouſies, began to renew and fortify their former League, and take all the other neceſſary Meaſures for preventing a Surprizal from any of their real or ſuppoſed Enemies.

In order thereunto the Towns of *Lubeck*, *Bremen* and *Hamburgh*, firſt began to enter into a ſtrait Alliance among themſelves, by a Negotiation then ſet on foot, and at laſt brought to a Concluſion between them, by a Treaty dated the 24th of *November* 1641, which being pretty long, I ſhall here content my ſelf with taking Notice only of what is moſt material to my preſent Purpoſe.

In the Preface to that Treaty they declare, that finding the preſent Poſture of Affairs to be ſuch, as might give them juſt Grounds to provide for the Security of their proper Rights and Privi-

Privileges, both in Spiritual and Temporal Matters, the moſt effectual Means for preſerving them from being liable to Foreign Violence and Oppreſſion, would be to renew the ancient Amity and good Intelligence with the reſt of the Hanſe Towns, in order to which, and for the Intereſt and Advantage of his Imperial Majeſty, and of the Empire, they agree upon the following Articles.

I. That they ſhall forthwith put themſelves in a good Poſture of Defence, by fortifying all their Towns, and raiſing, in Proportion to their Strength, a competent Number of regular Troops, and putting their own Citizens and Servants in a Condition to protect them againſt all ſudden Inſults and Attempts that might be made againſt the Hanſeatick Towns, or any of them.

II. That they ſhall upon all Occaſions, and eſpecially in the preſent critical Conjuncture, live in a perfect Repoſe and Union with one another, and without giving any Subjects of Offence to any other Perſon or Perſons whatſoever.

III. That in caſe of any ſudden Hoſtility committed againſt any of their Members, the injur'd Party ſhall not expect any Succour from the others, till by their Interpoſition in an amicable manner the others endeavour to compoſe the Differences, and procure them a reaſonable Satisfaction.

IV. But that if ſuch friendly Methods of Proceeding ſhould prove at laſt ineffectual, and the Aggreſſor ſhould unreaſonably perſiſt in oppreſſing any of their Towns in their Spiritual or Temporal Rights, Liberties, Privileges, Prerogatives, Commerce, Navigation, Perſons or Effects, by Sieges, Blockades, building of Fortreſſes, hoſtile Invaſions, exacting of Contributions, Arms, Ammunitions, Proviſions, or other violent and unjuſt Oppreſſions, then the Party injur'd ſhall be ſpeedily and effectually aſſiſted, according to the Neceſſity and Circumſtances of the Caſe, with Men and Money, and every other thing that might be neceſſary for them.

V. That none of the Confederates, nor their Subjects, ſhall give in any manner of Succour or Neceſſaries to the Enemy, openly or ſecretly, and that ſuch as ſhall be convicted of the ſame ſhall be ſeverely puniſh'd.

VI. The aforementioned Succours and Aſſiſtance ſhall be given, as is above expreſſed, againſt all and every Perſon and Perſons that ſhall do any Damage to any of the League by Sea or Land, or in the Ports and Rivers.

VII. If the Town inſulted be of Opinion that the Imminency of the Danger cannot admit of a Preliminary Deliberation, the Inha-

Inhabitants may immediately call the others to their Aſſiſtance, and then an Aſſembly ſhall be appointed.

VIII. If any Town be ſo ſuddenly attack'd that the others cannot ſend a timely Succour, thoſe that are neareſt ſhall not only ſend thither their Soldiers, but ſhall likewiſe advance them at leaſt One Months Pay, and ſhall alſo raiſe immediately other Troops, of which Charges they ſhall be re-imburs'd by the other Confederate Towns with all convenient Speed, *&c.*

IX. If two or three Towns ſhould be attack'd at one time, the whole Confederate Towns ſhall nevertheleſs ſuccour and aſſiſt one another to the utmoſt of their Power.

X. For the more ſpeedy Diſpatch of Affairs, the oppreſſed Town ſhall immediately make known its Condition to its neareſt Neighbours, who ſhall forthwith acquaint the other Confederates, that they, without any Delay, may appoint a Diet, and ſend thither their Deputies.

XI. And if the Danger be very imminent, the oppreſſed Town ſhall have Power to appoint a Diet, according to the Exigency of the Caſe.

XII. The Direction of any defenſive War ſhall reſide in thoſe to whom the Succour is ſent, but if they require it at their Hands, the other Confederates ſhall ſend Deputies to aſſiſt at the Deliberations.

XIII. If any Town is ſo ſuddenly attack'd or block'd up, as that the others cannot ſend in any Perſons to them, they ſhall endeavour to find Means to ſend out one or more Perſons, to let their Confederates know their Circumſtances.

XIV. However, ſuch as have been, or ſtill are oppreſſed, being ſuccour'd by the Confederates, ſhall not conclude any Treaty without their Privacy and Conſent.

XV. And if Things can be brought to any reaſonable Accommodation, all poſſible Endeavours ſhall be us'd to obtain Satisfaction to the injur'd Party, and to bring the Treaty to ſuch a Concluſion, that the Parties may have no Occaſion left for future Quarrels.

XVI. This League, which is in Confirmation of the Eighth Article of the former, ſhall ſubſiſt during Ten Years, and may then be renew'd and prolong'd; and in caſe of a War, reaſonable Satisfaction ſhall be made to ſuch as have been at the Charge thereof.

XVII. If after the Expiration of this League any of the Members thereof ſhould come to be attack'd by reaſon of it, they ſhall, notwithſtanding that the League be expir'd, mutually aſſiſt each other.

XVIII. Laſtly,

XVIII Laſtly, All the Hanſeatick Towns that will enter into this League upon the aforementioned Conditions, ſhall be receiv'd by the common Conſent

All which Articles ſhall be faithfully and ſincerely obſerv'd, ſign'd and ſeal'd, &c.

This Treaty being ſo concluded, the States of *Holland* found it their Intereſt to enter into another with the Towns of *Bremen* and *Hamburgh* on the 4th Day of *Auguſt* in the Year 1645, of which you may take the following ſhort Account, which I have carefully extracted out of the *Latin* Original.

The Preface to the Treaty inſinuates, that there having been of ancient Time a firm and ſincere Friendſhip between their High Mightineſſes the States General and the Honourable Cities of *Bremen* and *Hamburgh*, and the other Hanſeatick Towns, and it being neceſſary for their common Intereſt and Security to cultivate and augment that good Intelligence, by renewing their former Engagements, they oblige themſelves to obſerve the following Articles.

I. The League ſhall not be offenſive to any, but ſhall only tend to the Security and Freedom of Commerce and Navigation, according to the Laws of Nations, and the Rights and Privileges formerly granted them by ſeveral Treaties and Contracts.

II. The ſaid League ſhall not be prejudicial to the Friendſhip of the States and their Confederates with his Imperial Majeſty and the Empire, nor to the Obedience that ſome of the ſaid Confederates owe to his ſaid Majeſty, and that the other Confederates ſhall not by virtue of this League be under any Obligation to concern themſelves in the preſent War between the King of *Spain* and them.

III. That if any of the Confederates ſhould be oppreſſed in their Trade, or otherwiſe, the other ſhall endeavour to compoſe all Matters amicably, and that Means failing, all the Members ſhould contribute towards the Charges of a defenſive War.

IV. That the States ſhall manage the Affairs of the Confederates to the common Advantage, with the Advice of the other Members, and Deputies ſhall be appointed to reſide for that Purpoſe at convenient Places.

V. That the Ships of all the Confederated Towns, *&c.* ſhall freely enjoy each others Ports and Harbours, *&c.* paying for what Proviſions they ſhall have occaſion for.

VI. That if any Diſſention ſhould happen among the Confederates themſelves, the ſame ſhall be amicably compos'd.

VII. That none of the Parties ſhall act any thing to the Prejudice of the other Members, or either of them, but ſhall, as much as in them lyes, contribute to the Intereſt, Honour and Advantage of each other.

VIII. That the League ſhall ſubſiſt Fifteen Years.

IX. That the other Hanſeatick Towns ſhall be receiv'd with the common Conſent.

X. And laſtly, That the Ratification ſhall be exchang'd within Two Months.

Sign'd and ſeal'd the 4th of Auguſt 1645.

This Treaty being ſo concluded, ſome Nine Days afterwards another was brought to a Period at *Chriſtianople* between the Ambaſſador of the King of *Denmark* and thoſe of the States General, by which it is agreed,

I. That there ſhall be a firm and ſincere Friendſhip between the Subjects of both Parties, who ſhould mutually perform all good Offices to one another, in ſo far as the Treaties of either Party with other Princes and States could allow it.

II. That for the Forty Years next enſuing the Tolls ſhall be paid in the *Baltick* Sea, according to a Regulation ſign'd and confirm'd between them, and that during that Time they ſhould not be augmented, but that after the Expiration thereof Things ſhould be regulated according to the Treaty concluded in the Year 1544, except another Treaty ſhould intervene within the aforeſaid Time.

III. The Searching of the Ships and Goods belonging to the Inhabitants of the united Provinces, and paſſing thro' the *Baltick* Sea, ſhall ceaſe, and entire Credit ſhall be given to the Mariners that produce their * *Cockets*, &c. who thereupon, paying the Toll, ſhall be diſmiſs'd, without any Trouble or Moleſtation, and ſhall not be detained in the cuſtomary Place (call'd *Den Drooghen)* near *Copenhagen*. But if in Time to come it ſhould appear that his *Daniſh* Majeſty is defrauded or injured in the Toll, their High Mightineſſes being acquainted therewith, ſhall think upon convenient Methods for remedying the ſame, and ſhall take care that no Injuſtice of any nature be done to his ſaid Majeſty.

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* Cocket *ſignifies a Certificate and Clearance, ordinarily given by the Officers of any Cuſtom-Houſe to Ships going to Sea.*

IV. The

IV. The Tranſportation of no Goods (what Name ſoever they bear) ſhall be forbid thro' the *Baltick* Sea.

V. All Goods that ſhall be prov'd really to belong to the Subjects of the united Provinces, whether exported or imported, ſhall not pay any greater Duties in the Kingdoms of *Denmark* and *Norway*, than are paid by the Subjects and Inhabitants of the ſaid Kingdoms themſelves; nor ſhall his *Daniſh* Majeſty's Subjects pay any greater Duties in the ſaid Provinces than the Inhabitants.

VI. Ships fully laded in any Port of the Kingdom of *Norway*, being once ſearch'd there, and having paid their Tolls, ſhall not be ſearch'd again in the ſame, nor in any other Port at which they may touch, but upon producing the Receipt thereof ſhall be freely diſmiſs'd; but if they lade in ſeveral Ports, they ſhall be ſearch'd there, and not elſewhere. And as the Exportation of † Oak is prohibited and forbidden, if any Perſon is convicted of exporting any of the ſaid Wood, he ſhall be fin'd in double the Price of the Oak.

VII. The Toll ſhall be paid in *Norway*, in the ſame Quantity and Manner that was uſual in the Year 1628, nor ſhall any greater be exacted till his *Daniſh* Majeſty and their High Mightineſſes agree about the Method of exacting the Duties for all ſorts of Wood, concerning which Affair his Majeſty and their High Mightineſſes ſhall enter into a Treaty as ſoon as that can be conveniently done, that ſomething more certain may be determin'd about it.

VIII. The Merchants and Mariners of the united Provinces ſhall by no means be obliged to purchaſe their Planks of ſome certain Perſons in *Norway*, but ſhall buy the ſame at ſuch Places and of ſuch Perſons as they pleaſe.

IX. The Ships of the Subjects of the united Provinces trading to *Norway* ſhall be meaſur'd by Two *Norwegian* and as many *Dutch* Mariners, to whom that Service ſhall be intruſted, and being ſign'd by them, ſhall be confirm'd by the Magiſtrate of the Place, and recorded in the Books of his Judicature, that the Mariners, in caſe of Neceſſity, may have recourſe to the ſame, and afterwards the

† *This Treaty was originally compos'd in* Latin, *and the Term in that Language, which I here render* Oak, *ſeems only to imply a certain ſort of* Oak *harder and better than the common ſort.*

Meaſure ſhall be mark'd upon the Maſt and Beak-head of the Ship, that the Toll may be the more conveniently determin'd, till it be otherwiſe agreed, as is already ſaid.

X. Full and ample Reſtitution ſhall be made for all the Extortions that the Subjects of the united Provinces can prove to have been made, againſt his *Daniſh* Majeſty's Command, after the Year 1641 (Four *per Cent.* of the Price or Quantity of the Wood being deducted) as of every thing that has been exacted contrary to the Treaty then entred into.

XI. The preſent Treaty concluded between his *Daniſh* Majeſty and their High Mightineſſes ſhall be ſign'd and ſeal'd by his Majeſty and the moſt Serene Prince of *Denmark*, and all and every one of the Counſellors of the Kingdom.

XII. The Rights and Privileges granted to the Towns of the united Provinces of the Low Countries by the Treaty of *Spiers*, and publiſh'd and confirm'd by the Authority of the ancient Kings of *Denmark*, ſhall not be in any manner diminiſh'd by the preſent Treaty, but ſhall remain, as formerly, in their full and entire Force, *&c.*

XIII. His *Daniſh* Majeſty promiſes and obliges himſelf, that he ſhall not upon any Account detain any of the Ships belonging to the Subjects of the united Provinces, nor take any Goods or Merchandizes out of them, nor force any of them into his Service, without firſt agreeing with the Maſters and Proprietors thereof, and paying them the full Price of the ſame; nor ſhall he, without the Conſent of the Poſſeſſors, take out of the ſaid Ships any Men, or Warlike Neceſſaries, or other Things, under any Pretence whatſoever; and it ſhall be free for them to ſail thro' the Mouth of the *Baltick*, and to Trade thro' all his Majeſty's Dominions.

XIV. Goods exported out of the united Provinces in Foreign Ships, ſhall be ſuffer'd freely to paſs thro' the Mouth of the *Baltick* Sea, paying the ſame Toll that is uſually paid for Goods exported out of the united Provinces, but upon this Condition, that it ſhall be made appear by ſufficient Teſtimonies, either from the Cities of the ſaid united Provinces, or others ſituate upon the Ocean, that the ſaid Goods belong to no other but the Subjects and Inhabitants thereof.

XV. All the Subjects of the ſaid Provinces that reſide in the Eaſtern Cities, carrying either their own Goods, or thoſe of the other Subjects or Inhabitants of the ſaid Provinces, thro' the *Baltick*, ſhall be treated in the ſame manner as the other Inhabitants thereof.

XVI. The

XVI. The Ships of the united Provinces having paid the Toll, and being ſearch'd in any Port of *Denmark*, ſhall not again be ſearch'd in any other Port of *Denmark* and *Norway*, except they take aboard Goods there, but on the contrary they ſhall be freely diſmiſs'd.

XVII. The Receivers, and other Officers of the Tolls in *Norway*, ſhall not exact of the Mariners any more than what is due, nor take any more for their Diſcharge than the King's Order bears, and his Majeſty ſhall cauſe ſuch as do otherwiſe to be ſeverely puniſh'd.

XVIII. As to what concerns the Toll at *Gluckſtadt*, if that Affair cannot be accommodated by the Treaty now commenc'd for that Effect with the City of *Hamburgh*, the Subjects of the united Provinces, producing the ordinary Certificate, ſhall be free from the Effect thereof.

XIX. And as by virtue of the preſent Articles all Differences between his *Daniſh* Majeſty and their High Mightineſſes the States General of the united Provinces are compos'd and entirely remov'd, it is mutually agreed and promiſed by the Ambaſſadors and Commiſſaries of either part, that the Ratifications ſhall be deliver'd on both ſides within Three Months.

Sign'd and ſeal'd, &c. *at* Chriſtianople *the* 13*th Day of* Auguſt 1645.

To this Treaty (of which I have left out ſome tedious Formalities not material to my Point) there is annex'd a Promiſe of the *Daniſh* Ambaſſadors, by which they oblige themſelves in the King's Name to cauſe the * *Tariff*, according to which the Tolls were paid by the *Hollanders* in the Year 1628, to be renew'd and publiſh'd with all convenient Speed, and that nothing ſhould be exacted of the Subjects of the united Provinces contrary to the Contents of the ſaid Tariff.

Thus much being ſaid of the Circumſtances and Affairs of the *Hollanders* and of the Hanſe Towns with the *Danes*, I thought it neceſſary to interrupt, for ſome Time, the Relation I give of their Marine Intrigues and Negotiations, to oblige the Publick with a Treaty concluded on the very ſame Day, *viz.* the 13th of *Auguſt* 1645, between the Crowns of *Sweden* and *Denmark*, which being

* Tariff *is a Term properly expreſſing what we call* Books of Rates *in* England, *being a Book in which are written down the Duties and Cuſtoms to be paid on all ſorts of Goods.*

a curious and uſeful Piece, and pertinent to my preſent Subject, I ſhall here give a faithful Tranſlation of as much of it as concerns Navigation and Marine Affairs.

In the Preamble to this Treaty the Ambaſſadors, *&c.* of all Parties ſet forth, that ſeveral Miſunderſtandings and Differences having of late aroſe between the Crowns of *Sweden* and *Denmark*, and that eſpecially concerning the Immunity of Commerce and Navigation, and of the Duties, *&c.* exacted in the narrow Paſſage of the *Sound*, which Differences having at laſt broke out into a War, to the great Loſs and Diſadvantage of both Kingdoms, in the Name of the moſt Serene and Mighty Prince *Lewis* XIV. the moſt Chriſtian King of *France* and of *Navarre*, his Mother the Queen Regent, out of her ſincere Compaſſion towards thoſe Kingdoms, and her Care for the Welfare of all *Chriſtendom*, and Deſire to prevent the further Miſeries and Calamities of War, and to give Repoſe and Peace to *Chriſtendom*, his moſt Chriſtian Majeſty aforeſaid having for that Effect ſent the Year before his Ambaſſador Extraordinary in the North to the Courts of *Sweden* and *Denmark*, with Orders to exhort both to a Reconciliation, by repreſenting to them the miſerable Condition of the Chriſtian World, and by offering to interpoſe the Mediation of *France* for the Compoſition of their Differences; *For thoſe Cauſes* her *Swediſh* Majeſty, out of her Reſpect to his moſt Chriſtian Majeſty, as well as out of the earneſt Deſire ſhe has to put an End to the War, and to enjoy and preſerve Peace within the Limits of her Kingdom, and to maintain a ſincere Friendſhip and good Correſpondence with all her Neighbours, and eſpecially with *Denmark* and *Norway*, who, becauſe of the Vicinity of their Situation, and for ſeveral other Reaſons, have many things in common with the Kingdom of *Sweden*, has received the friendly Counſel of his moſt Chriſtian Majeſty, and accepts and acquieſces in the Offers made of the Interpoſition of the Mediation of *France*; and his *Daniſh* Majeſty having likewiſe declar'd, that he accepts of the ſame Mediation, a Meeting being appointed at *Bromsbroo*, upon the Frontiers, on the 8th of *February*, between the Commiſſaries and Plenipotentiaries of both Kingdoms, being Four on each ſide, and of equal Quality, where the ſaid Ambaſſadors being aſſembled, with the Help and Aſſiſtance of the Ambaſſador of *France*, as Mediator, they concluded a firm and ſolid Peace, and agreed to the following Articles.

I. As to the Paſſage and Navigation thro' the Streights of the *Sound* and *Belt*, and from the *Baltick* Sea into the Ocean, and likewiſe from the Ocean into the *Baltick* Sea, and the Immunity from paying all Tolls and Taxes becauſe of the ſaid Paſſage and Navigation,

tion, the Certificates for Goods, and the ſearching, viſiting, ſtopping, and juſticiary Arreſts and Proceedings, eſtabliſh'd for Ships and Goods, to prevent Fraud, and preſerve the Ships and Goods from all Danger, and likewiſe for preſerving the Liberty of Commerce, the Interruption of which has given Occaſion to the preſent War and Commotions, after many Conferences, in which all Means of Reconciliation have been propoſed and examined, it is agreed as under, *viz.*

I. It is promiſed in the Name and on the Behalf of his *Daniſh* Majeſty and his Succeſſors, and of the Kingdom of *Denmark*, that in Time to come her *Swediſh* Majeſty, and her Succeſſors, Kings and Queens of *Sweden*, and their Subjects and Inhabitants in the Kingdom of *Sweden*, great Dutchy of *Finland*, *Ingria*, *Eſthonia* and *Livonia*, ſhall have Right, Liberty and Power to navigate, whether in their own or in hired Ships, with all ſorts of Veſſels, great or ſmall, arm'd or unarm'd, Men of War or Merchant Men, and to tranſport their Goods and Effects, of any Kind or Sort whatſoever, thro' the Streights of the *Sound* and the *Belt*, according to the Opportunity and Pleaſure of every Man; nor ſhall that Privilege be forbid them, nor they any ways troubled and moleſted in the Enjoyment of the Premiſes.

II. And this ſhall be ſo underſtood, that it ſhall be free for her *Swediſh* Majeſty and her Succeſſors, and her and their ſaid Subjects inhabiting in *Sweden*, *Finland*, *Ingria*, *Eſthonia* and *Livonia*, to tranſport, according to their Power and Pleaſure, thro' the Streights of the *Sound* and the *Belt*, all ſorts of Merchandizes and Effects, without Diſtinction, Exemption, or Limitation, whether it be Goods bought and purchaſed in other Towns or Kingdoms, or whether it be the Product of the Earth or Manufactures, more eſpecially all ſorts of Munitions of War, and every thing that may be uſeful therein, and particularly Braſs or Iron Guns, great or ſmall Fuſils, Muſquets and Arms, Swords, Ball, Gun-powder, Salt-petre, and every other thing belonging to War or Arms, by what Name ſoever it may be called, without any Impediment, Detention, Inhibition, Charge or Tax, whether ſuch Things be tranſported from *Sweden*, *Finland*, *Ingria*, *Eſthonia*, *Livonia*, *Pomerania*, *Mecklemburgh*, *Lubeck*, or from the Towns of *Pruſſia* and *Curland*, into the Lands along the Ocean, or whether they be tranſported from the aforeſaid Places thro' the *Baltick* Sea into *Sweden*, and the aforeſaid Provinces, or directly into *Pomerania*, *Mecklemburgh*, *Lubeck*, the Towns of *Pruſſia* and *Curland*, or others.

III. All

III. All Ships and Goods, of what Kind ſoever, belonging to her *Swediſh* Majeſty, and her Subjects and Inhabitants in *Sweden*, *Finland*, *Ingria*, *Eſthonia* and *Livonia*, their Mariners, Merchants, and other Paſſengers, whether the Ships belong entirely to them, or whether they have only a Share in the ſame, ſhall be free from all Tolls and Taxes in the Streights of the *Sound* and the *Belt*, that now are in Practice, or that the Mind of Men can in Time to come invent, under any Pretence whatſoever, not only during their Abode in the ſaid Streights of the *Sound* and the *Belt*, but likewiſe during the whole Courſe of the Voyage, whether in going or coming; but if the Veſſels do wholly belong to Strangers, or if they have any Share therein, and the ſame may be only ſail'd by his *Swediſh* Majeſty's Subjects, they ſhall pay to the King of *Denmark* for their Paſſage thro' the *Sound* and the *Belt* what ought to be paid according to Treaties and Cuſtom, whether for the whole Ship, if it entirely belongs to Strangers, or for any part thereof proportionably, preſerving however in every thing the Liberties and Immunities of the *Swediſh* Ships, Effects and Perſons.

IV. It is agreed as to the Liberty of Navigation of the *Swedes*, and their Exemption from Tolls, and his *Daniſh* Majeſty promiſes and determines them in this manner, in his own Name, and in that of his Succeſſors, Kings of *Denmark*, and of that Kingdom, that her *Swediſh* Majeſty, and her Subjects in *Sweden*, *Finland*, *Ingria*, *Eſthonia* and *Livonia*, ſhall, without Diſtinction, enjoy theſe Rights and Liberties in their Perſons, Ships, Goods, and Merchandizes, whether of the Product of the Earth or Manufactures, and in Time to come all the aforeſaid Ships of *Sweden*, and all others carrying *Swediſh* Goods and Effects, Writings and Perſons, ſhall be free from all Searching, Viſiting, Meaſuring, and other Vexations in the Paſſage of the *Sound* and the *Belt*, and that no Right of Superiority or Juriſdiction ſhall be exerciſed over them in any thing concerning their Paſſage, Traffick, and Navigation, and much leſs ſhall any Ships be ſeiz'd, or any Effects taken out of Ships, or any Ships forc'd into the *Daniſh* Service, without the Conſent of the Owners.

V. And becauſe the Certificates, and the different Expoſitions and Explications of them, have very much contributed to the eſtabliſhing of the Cuſtom of ſearching of Ships in the Paſſage of the *Sound*, and given Occaſion to the Differences that have happen'd, and to the preſent War between theſe Kingdoms; *For theſe Cauſes*, and for preventing ſuch Miſunderſtanding in Time to come, and for the more eaſy diſtinguiſhing between the free Ships and Goods of *Sweden*, and thoſe that are ſubject to the Taxes,

it

it is finally concluded and agreed by theſe Preſents, that all *Swediſh* Ships of War, great or ſmall, laded or unladed, whether there be one alone, or ſeveral together, paſſing thro' the Streights of the *Sound*, and ſailing to *Cronenborg* (which ſhall not be practiſed in any other Place of the Paſſage of the *Sound*) ſhall ſtrike the Mainſail in paſſing by the Citadel of *Cronenborg*, and ſalute the ſame with the Ordnance, which Salutation ſhall likewiſe be return'd by the Citadel; and if the Ships of War continue their Voyage, without coming to an Anchor, it ſhall be free for them to ſail on without any further Ceremony; but if it happens that any *Swediſh* Man of War coming to an Anchor in the Streight of the *Sound*, and the Governor of *Cronenborg* ſend to the Captain to enquire of him in a friendly manner whence he comes, and deſire him to ſhew his Certificate, without picking otherwiſe any Quarrel with him, the Captain ſhall not decline ſhewing his Paſport to the Perſon ſent by the Governor, but they ſhall receive and entertain one another with all imaginable Reſpect and Civility, and the Captain ſhall not be troubled in any other manner whatſoever. And as for the narrow Paſſage of the *Belt*, the *Swediſh* Ships of War may freely paſs by *Nyburgh*, according as the Wind and their Conveniency will allow them; but if they come to an Anchor before or near the Citadel, the ſame thing ſhall be obſerv'd that has been already expreſſed concerning the Citadel of *Cronenborg* in the Streight of the *Sound*.

VI. And beſides, that all *Swediſh* Ships or Veſſels belonging to her *Swediſh* Majeſty's Subjects, and to the Inhabitants of her Majeſty's Dominions in *Sweden*, *Finland*, *Ingria*, *Eſthonia* and *Livonia*, wholly laded with the Goods and Effects of the ſaid Merchants and Inhabitants, ſhall be, according to theſe Articles and Conventions, free from all Charge and Vexation, provided they have general Certificates for their free Paſſage from her Majeſty and her Officers in ſpecial Matters, and in other Caſes from the Conſuls and Senators of the Towns, to have a Juriſdiction over the Ships and Goods belonging to the Citizens and Inhabitants of the Kingdom, by which it ſhall be certify'd in general Terms that the Ships and Goods do belong to the Subjects and Inhabitants of *Sweden*, which Certificate ſhall be conceiv'd according to the following manner.

A Form of the general Maritime Paſsport for a Swediſh *Ship entirely loaded with* Swediſh *Goods, which (changing what is to be chang'd) may likewiſe ſerve for Foreign Ships entirely laded with* Swediſh *Goods.*

WE Conſuls and Senators of the Town of certify, that the Ship commanded by belongs to our Town of (or ſome other Town) in *Sweden*, and is only laded with Goods belonging to *Swedes*, and is bound for the Ocean, as the Maſter and the Owners thereof (if they be more than one) have declared before us in our Court, deſiring this Certificate as a Proof thereof, the Ship and Goods being thereby to be exempted from all Taxes and Vexations in the Paſſage of the *Sound* and the *Belt*, according to the Treaties between the Two Kingdoms. In Teſtimony whereof we have cauſed the Seal of the Town to be put to theſe Preſents, which we have likewiſe caus'd to be ſign'd by the Clerk. *Given*, &c.

Which Certificate ſhall be ſhewn and conſign'd in the Hands of the Officers of his *Daniſh* Majeſty's Cuſtom-Houſes at *Elſenore* and *Nyburgh*, in the Paſſages of the *Sound* and the *Belt*, who thereupon ſhall be oblig'd forthwith to diſcharge the Ships, with a Teſtimony that they have paſs'd with their Lading, which Teſtimony ſhall be conceiv'd according to the following Model.

A Model of the Teſtimony to be given by the Officers of the Cuſtom-Houſes of Elſenore *and* Nyburgh *to ſuch as ſhew their Certificates.*

IN the Year One Thouſand *N. N.* Maſter of the Ship the belonging to the Town of *B.* has deliver'd his Certificate for Ship and Goods, dated at *B.* the day of in the Year In Witneſs whereof we have given him this Teſtimony, *&c.*

Which being done, ſuch Maſters may freely depart with their Goods and Men, without any Hindrance, Prejudice, Charge, or Vexation.

VII. Ships

VII. Ships hir'd by Merchants and Inhabitants in *Sweden*, and only laded with *Swediſh* Goods, ſhall be treated in the ſame manner, and after ſhewing their Certificates conceived in general Terms, and leaving the ſame at *Elſenore*, or at *Nyburgh*, and receiving a Teſtimony thereof (which is to be done without Delay) paying what is due for Ships that are wholly or partly Foreign, without Prejudice to the Rights of *Swediſh* Perſons and Goods, according to their Proportions, it ſhall likewiſe be free for them to continue their Voyage, without any further Trouble or Moleſtation.

VIII. And ſo if any *Swediſh* Merchant Ship not laded paſs thro' the Streights of the *Sound* and the *Belt*, the Maſter ſhall make it appear (as is already ſaid) at *Elſenore* and *Nyburgh*, by a general Certificate, that he belongs to *Sweden*, *Finland*, *Ingria*, *Eſthonia*, or *Livonia*, after which he ſhall pay what is due, and depart at his own Conveniency, without any other Tax, Vexation, Hindrance, or Detention.

IX. If any Veſſel, great or ſmall, paſs thro' the Streights of the *Sound*, or the *Belt*, laded partly with *Swediſh*, and partly with Foreign Goods (which latter are liable to pay all the Duties levied at that Place) the Maſter muſt have Certificates of all the Goods and Effects he has aboard belonging to the Merchants and Inhabitants of *Sweden*, *Finland*, *Ingria*, *Eſthonia*, and *Livonia*, in which ſhall be particularly expreſs'd the Weight of the Goods, in ſuch manner as one may diſtinctly ſee all the heavy Goods that are uncovered, and are not bound or pack'd up, with their Weight, Number, and Meaſure, according to the Cuſtom of the Sea, ſuch as Copper, Braſs, Iron, Pitch of all ſorts, Corn, Salt, ſalt Fiſh, Butter, Tallow, Hemp, Flax, and ſuch other Goods; and as for ſmall Goods, that can be put up in Casks and Barrels, they ſhall not be ſpecified, but they ſhall be mark'd with a *Swediſh* Mark upon the Casks and Barrels, and it ſhall be expreſs'd in the Certificate, that the ſaid Casks and Barrels, and the Goods they contain, and which are not ſpecified, belong to Merchants and Inhabitants of *Sweden*. And for the greater Clearneſs of the thing, and avoiding all Occaſions of Difference, there is hereunto added a Model of the ſaid Certificate.

A Form of the Certificates to be given to the Swediſh *Ships, laded partly with* Swediſh, *and partly with Foreign Goods, which are ſubject to pay the Taxes, which, making ſome Alterations, may likewiſe ſerve for Foreign Ships hir'd by* Swedes.

WE Conſuls and Senators of the Town of *N.* certify, that upon the Day under-mentioned *P. P.* Citizen (or Inhabitant) of our Town of *N.* (or ſome other Town) in *Sweden*, appearing before us at our Court, declared, that he had ſhipped on board the Ship *R.* of which his Owner *S. S.* and Maſter *T. T.* the Number of Pounds of Copper, Iron or Flax, or Tuns of Wheat, Rye or Barley, or the Number of Beams, Planks or Maſts, or of Tuns of Wine, or the Number of Casks or Barrels of Goods and Merchandizes, mark'd *L. L.* belonging to *Q. Q.* Citizen (or Inhabitant) of the Town of *C.* in *Sweden*. And the ſaid *P. P.* requiring this Certificate to indemnify the Ship and Goods from all Taxes and Vexations in the Streights of the *Sound* and the *Belt*, according to the Treaties between the Two Kingdoms, we have granted him the ſame, after having caus'd it to be ſeal'd with the Seal of the Town, and ſign'd by the Clerk. Given, *&c.*

Which Certificate agreeing with the Quantity of Goods, and being ſhewn and delivered to the Officers of the *Daniſh* Cuſtom-Houſes at *Elſenore* and *Nyburgh*, the ſaid *Swediſh* Goods expreſſed in the Certificate ſhall be free and exempt from all other ſearching, viſiting, Detention, Juſticiary Proceeding, or Confiſcation. But if it happens that there be reaſon to ſearch the Ship for other prohibited Goods, or others that are ſubject to the Taxes, in that Caſe ſuch Goods as ſhall be call'd in queſtion ſhall be taken out of the Ship and depoſited, and ſearched and examined at *Elſenore* or *Nyburgh*, which ſhall be perform'd within the Space of Eight Days at moſt, ſo that within the ſaid Time at furtheſt any *Swediſh*, or other Ship freighted by *Swedes*, may be free to depart with all the *Swediſh* Goods, without any further Retardment, and that the Ships and Veſſels, Merchandizes and Effects, belonging to the Subjects and Inhabitants of *Sweden*, *Finland*, *Ingria*, *Eſthonia* and *Livonia*, be not in the leaſt tormented with unneceſſary Searchings and Vexations by reaſon of the ſaid Miſtakes and Errors.

X. If any Ship of *Sweden*, *Finland*, *Ingria*, *Eſthonia*, or *Livonia*, be freighted by Strangers, and laded with Foreign Goods, that are ſubject to pay the Taxes, the Ship and Perſons ſhall nevertheleſs enjoy the Liberties, Privileges and Immunities which are rightly due, and by theſe preſent Articles are granted to the *Swedes*, and the Foreign Merchant ſhall give an Account of his Goods, without any Violation of the Immunities of the *Swedes* in the Streights of the *Sound* and the *Belt*.

XI. And that no Retardment or Damage may be caus'd to the *Swediſh* Ships and Goods in their Voyages, contrary to the Intent of theſe Preſents, it has been promiſed in the Name of his *Daniſh* Majeſty, that things ſhall be ſo diſpoſed at *Elſenore* and *Nyburgh*, that the Maſter of the Cuſtom-Houſe, or ſome other Officer in his Place, ſhall attend at certain Hours before and after Noon every Day at the ſaid Cuſtom-Houſe, there to receive the Certificates, and immediately upon the Receipt thereof to give others to the Maſters in the Form above preſcrib'd, in ſuch manner, that the *Swediſh* Ships and Goods may continue their Voyages, and freely paſs, without any Hindrance or Moleſtation.

XII. And if it afterwards ſhould happen that her *Swediſh* Majeſty's Ships, or thoſe of her Subjects, whether they be their own or hir'd Ships, being forc'd back by Tempeſt or otherwiſe, ſhould deſire a ſafe Port in *Norway*, or any other Place of the King of *Denmark*'s Dominions, it ſhall be freely granted them, and they ſhall not be moleſted in any manner, neither for Taxes, Searches, nor any other thing, but ſhall only pay the Duties that other Friends and Strangers pay for Anchorage, and ſuch other Conveniences, in Place where ſuch things are uſually levy'd, but as to their Goods and Merchandizes, they ſhall have the Liberty to purchaſe Neceſſaries for their Money, and the *Daniſh* Ships of War and others ſhall have the ſame Privilege in the like Caſe in the Ports of *Sweden*.

XIII. If it happens that either her preſent *Swediſh* Majeſty, or her Succeſſors, Kings of *Sweden*, ſhould levy Soldiers, either Horſe or Foot, in the Kingdoms or Dominions of their Friends along the Ocean, or ſend any to the Provinces in their Neighbourhood of the *Baltick* Sea, or into *Oſtrogoth*, and they paſs on one ſide or other thro' the *Baltick* Sea, it is agreed, that her Majeſty, and her Succeſſors, ſhall have entire Liberty to do it, without any Oppoſition, provided however, that there ſhall not paſs together above 1200 Men, and that Notice be given to his *Daniſh* Majeſty Three Weeks before, that thereby all Suſpicions may be remov'd, and the Paſſage may be free; but if any *Swediſh* Officers or others would paſs thro' the *Baltick* Sea with their own Horſes and Equipages, they may freely do it in one, or ſeveral Ships, without giving any Notice.

XIV. And to prevent Differences between the Two Kingdoms in Time to come, or if the Fleets of the Two Kingdoms meet, or one Ship of War meets another, or if by Accident the *Swediſh* Fleet enters into any the Streights of the *Baltick* Sea, or the *Belt*, and there meets that of *Denmark*, or if the Ships or Fleet of the latter enters into any Place or Port where the *Swedes* are before them, it is agreed in the following manner, that if the Fleet of either of the Kingdoms meet the other in the *Baltick* Sea, or in the Ocean, they ſhall mutually receive one another with Marks of Friendſhip, and ſhall ſalute and honour one another in the ſame manner, firing Guns, according to the Cuſtom, and neither the one nor the other ſhall attempt any thing further, nor endeavour to exerciſe any Act of Superiority, whatever Pretenſion they may believe they have; the ſame ſhall be obſerved when One or Two Ships meet; but if One or Two Ships of either of the Kingdoms meet the Fleet of the other, they ſhall ſalute it, by firing of Guns, and ſtriking their Main-Top-Sail till the Fleet be paſt, or till it come to an Anchor in ſome Port, but they ſhall not be obliged to ſtrike their Flags; and if there be more than Two Ships of either ſide together, and they form a Fleet, they ſhall content themſelves to fire Guns on both ſides, without ſtriking their Sails, and the one ſhall not oblige the other to do it.

XV. It ſhall be free for One, Two, Three, Four, or at moſt Five *Swediſh* Men of War to paſs thro' the Streights of the *Sound* or the *Belt* without giving previous Notice to his *Daniſh* Majeſty, or his Succeſſors, and when they are arrived at the Streight of the *Sound*, and have ſaluted, after the *Swediſh* manner, with Two Guns, (as has been already ſaid) they ſhall lower their Main-Top-Sails before the Caſtle of *Cronenborg* till they be paſt it; and if it happens that his *Daniſh* Majeſty's Ships or Fleet be there before them, they ſhall be ſatisfied with the Two Guns aforeſaid, without being obliged to any thing further, and much leſs ſhall any other Marks of Honour or Deference be requir'd of them; but if her *Swediſh* Majeſty, or her Succeſſors, be oblig'd to paſs the Streight of the *Sound* or the *Belt* with a Fleet of Ships of War, it is agreed that his *Daniſh* Majeſty ſhall have Notice of it Three Weeks beforehand, that the Arrival of ſuch a Fleet may give no Ground of Suſpicion or Miſtruſt, and ſuch Notice being given, the *Swedes* ſhall have free Liberty to paſs, without any Oppoſition or Damage by the *Danes*.

XVI. And

XVI. And as to what concerns the Iſland of *Burgen*, where his *Daniſh* Majeſty has kept for ſome Time a Galley, and levy'd Cuſtom, his ſaid Majeſty, by theſe Preſents, yields, and entirely renounces that Practice, and promiſes to make uſe of the ſame no more, and that henceforth he will not pretend to exact any Toll there.

XVII. As to the Duty which his *Daniſh* Majeſty has levy'd of late Years at *Gluckſtadt* upon Ships and Goods going from one Place or another to *Hamburgh*, it is likewiſe agreed in the following manner, that as his *Daniſh* Majeſty is now in a Negotiation with the *Hamburghers* concerning the Differences between them, and for abrogating of that Cuſtom, if they agree between themſelves, and the aforeſaid Duty be abrogated, the Subjects of his *Swediſh* Majeſty that Trade that way ſhall alſo enjoy the ſame Privileges; and tho' againſt all Appearance the Difference with the *Hamburghers* about that Duty continue, or tho' they ſhould conſent to pay it, in that Caſe the *Daniſh* Commiſſioners have promiſed in his *Daniſh* Majeſty's Name, and in that of the Duke of *Holſtein*, and have obliged themſelves, that all her *Swediſh* Majeſty's Subjects and Inhabitants in *Sweden*, *Finland*, *Ingria*, *Eſthonia* and *Livonia*, that Trade upon the *Elbe*, ſhall be freed therefrom, and that they ſhall not be moleſted nor detained by reaſon thereof by any of his *Daniſh* Majeſty's nor the Duke of *Holſtein*'s Miniſters, whether they reſide in Forts or Ships, and that they ſhall be free from all Taxes and uneaſy Searchings; and further, that they ſhall not ſo much as be obliged to ſhew any Teſtimonies in Writing, and much leſs to produce Certificates, or give any other Account of that nature.

XVIII. And as the Experience of by-paſt Times has demonſtrated, that the Privileges and Liberties granted to the *Swedes* in *Denmark* and *Norway*, and to the *Danes* and *Norwegians* in *Sweden*, to Trade together, and be exempted from all Duties introduced partly by ancient Cuſtom, and partly by the Tranſactions and Treaties concluded between the Two Kingdoms, has given Birth to ſeveral Differences, and has even occaſioned a Hatred and Animoſity between the Kingdoms, and as often ſet the King and Subjects of one of the Kingdoms at Variance with thoſe of the other, inſomuch that that has been the principal Cauſe of breaking the ancient Friendſhip that was between the Two Kingdoms, and there has ſcarce been any Conference between the Commiſſioners of both Parties where that Grievance has not been repreſented; beſides, that at this time that Liberty cannot be ſo conveniently continu'd as it formerly was: *For theſe Cauſes* it is agreed on both ſides, that all Immunities of Duties and Taxes ceaſe and be removed for the *Danes* and *Norwegians* in *Sweden*, and for the *Swedes* in *Denmark* and

and *Norway*, without Prejudice of the Exemption of Duties, and of the free Paſſage of the *Swedes* in the Streights of the *Sound* and the *Belt*; and likewiſe Paſſage ſhall be forbidden to the *Swediſh* Merchants with their Merchandizes to go into *Denmark* and *Norway* beyond their Limits; and the ſame thing ſhall be forbidden to the *Danes* and *Norwegians* to go into *Sweden*, as well into the Country as into the Maritime Towns and Provinces; however, any *Swediſh* Merchant Trading in Time to come into *Denmark* and *Norway*, ſhall have the Privilege of Trafficking in the Maritime Staple Towns appointed for it, whither it is lawful for Merchants to go, and he ſhall there enjoy the ſame Liberties and Privileges granted to other Friends and Foreigners, according to the Laws and Statutes of *Denmark*, preſerving always the Privileges of the Towns; and on the other hand a *Daniſh* or *Norwegian* Merchant Trading in *Sweden*, or any of the Provinces depending upon it, ſhall enjoy the ſame Privileges and Liberties of Trading in Staple Ports appointed for that purpoſe, and in which other Foreigners and Friends are allow'd to come, according to the Statutes and Laws of *Sweden*, preſerving always the Privileges of the Towns; and to the end that their *Swediſh* and *Daniſh* Majeſties may not be troubled and moleſted in their Kingdoms, they ſhall diſpoſe of their Subjects according as every one's Occaſion and Condition requires it.

XIX. The Trade and Navigation upon the River of *Trotheſt*, between *Weſtgoth* and the Territory of *Bahus*, ſhall remain under the ſame Condition, Liberty and Privilege that it anciently was, and ſhall not be hinder'd nor interrupted at either of the Entries towards *Gothburg* and *Kongel*, and all Buildings that have been erected, or other things that have been ſunk in its Channel, that may be any ways prejudicial to the one or the other, ſhall be removed, and the Channel ſhall be cleans'd without any Oppoſition, and eſpecially what was thrown into it, to ſtop its Entry towards *Bahus*, ſhall be taken away, and after an exact Search its ancient Current ſhall be reſtored to it, and what Damage is done ſhall be repaired; the *Swedes* ſhall not be in any manner diſturb'd by the *Danes* and *Norwegians*, nor ſhall the latter by them, but on the contrary Navigation and Commerce ſhall be carried on with Equity, and Ships ſhall go up and come down the ſame River on the ſide of *Gothburg* without any Hindrance, Charge, or Grievance, as it has been formerly practis'd.

XX. And

XX. And further it is agreed, that her *Swediſh* Majeſty ſhall have in Time to come, as ſhe has had hitherto, a Poſt-Maſter at *Elſenore*, and a Poſt between *Sweden* and *Hamburgh*, who ſhall paſs on all ſides without Hindrance or Moleſtation, and ſhe ſhall likewiſe have Perſons to carry her Majeſty's Letters, and thoſe of her Subjects, and others that are ſent out of the Kingdom, or into it, and that without any Obſtacle, Retardment, or Searching; and his *Daniſh* Majeſty ſhall have the like Power, that is to ſay, to keep an Agent at *Stockholm*, for his own and his Subjects Buſineſs.

XXI. The Eſtates enjoyed by the *Swediſh* Gentry in *Denmark* and *Norway*, and thoſe enjoyed by the *Daniſh* and *Norwegian* Gentry in *Sweden* before this War, ſhall be reſtor'd to the right Owners, who ſhall poſſeſs the ſame, according to the ancient Treaties, and according to the Laws and Statutes of each Kingdom, without any Moleſtation or Hindrance whatſoever.

XXII. And becauſe the War has occaſion'd ſome Confiſcations on both ſides, and ſome Loſſes to the Subjects whilſt it laſted, all things ſhall be forgot on either ſide upon Conſideration of this Peace, and all that has been adjudg'd and actually confiſcated, and all private Loſers, ſhall remain in the Condition in which they now are, and nothing ſhall be paid on either ſide by the Subjects, nor ſhall any Moleſtation be given, nor any Action intended, againſt ſuch as by reaſon thereof have contracted Debts, and have not lawfully paid the ſame as well within as without the Kingdom.

XXIII. But if any thing be found (whether it be adjudg'd or not) that is not actually confiſcated, and all Debts that the Subjects and Inhabitants of *Sweden* had Right to demand before this War of his *Daniſh* Majeſty, or the *Danes* and *Norwegians*, of her *Swediſh* Majeſty, upon due Proof, ſhall be forthwith paid on both ſides.

XXIV. And if during the Courſe of this War any Sentence has been given, either in *Sweden* or *Denmark*, to the Prejudice of any *Swede* in *Denmark*, or to the Prejudice of any *Dane* or *Norwegian* in *Sweden*, it ſhall be of no Effect, and it ſhall now be free for every Man to purſue and prove his Right.

XXV. As her Majeſty the Queen *Chriſtiana* of *Sweden* has during this War reduc'd to her Obedience ſeveral of his *Daniſh* Majeſty's Forts, Provinces, Territories, and Towns in *Jutland*, *Scania*, *Halland*, *Belking*, *Bornholm*, and *Holſtein*, and likewiſe in *Stormaren* and *Ditmarſen*, and namely *Chriſtianople*, *Pinnenberg*, *Helſingburgh*, *Lanſcroon*, *Laholm*, *Engelholm*, *Seltzburgh*, *Hammerſuſen*, or by what other Names ſoever they are or may be called, now poſſeſſed

poſſeſſed by Right of War, for that, and ſeveral other Conſiderations, and by the Mediation and Diligence, and the continual Exhortations and Perſuaſions of his moſt Chriſtian Majeſty's Ambaſſador, her Majeſty the Queen of *Sweden* makes over and conſents to give to his *Daniſh* Majeſty and his Succeſſors all the Title ſhe may have acquired by the Right of War to the ſaid Provinces, Lands, Forts, Houſes, Fields, Towns, and Territories, all which things ſhall depend of him and his Succeſſors, according to the Tenor of this Peace; and that becauſe of the Deſire ſhe has to prevent the extraordinary Miſeries with which the Continuation of the War would be attended, well conſidering how neceſſary a Reconciliation between the Northern Kingdoms, is for breaking a Way for the Peace and Repoſe of Chriſtendom ſo long wiſh'd for; and that the Care and Deſire of their Majeſties the moſt Chriſtian King and the Queen Regent his Mother to end the Differences and Wars between theſe Kingdoms may not be without Effect, his *Daniſh* Majeſty eſpecially being perſuaded by his moſt Chriſtian Majeſty's Ambaſſadors, having promiſed in his own Name, and for his Succeſſors, and the Kingdoms of *Denmark* and *Norway*, as effectually by theſe Preſents, he conſents and promiſes to her *Swediſh* Majeſty and her Succeſſors Kings of *Sweden*, and to the ſaid Kingdom, that in Compenſation for the Provinces, Fortreſſes, Towns and Territories which are to be reſtored, he makes over all *Jemptland*, including *Heredalia*, &c. as likewiſe *Gothland*, and the Town and Citadel of *Wisby*, and the Iſlands and Arms of the Sea depending of the ſame, as likewiſe *Oeſel* and *Arnsburgh*, with all the Iſlands and Appurtenances, and every thing depending of it, with the Superiority, Royal Privileges, and Eccleſiaſtical and Political Juriſdiction, Tributes, Revenues and Dues by Sea and Land, in the ſame manner as the Kings of *Denmark*, and particularly *Chriſtian* IV. now reigning, has enjoy'd the ſame, which ſhall belong and appertain in Time to come to her *Swediſh* Majeſty and her Succeſſors to the Kingdom of *Sweden*, to be by them poſſeſſed by a perpetual Right, as the ſpecial Inſtrument of Ceſſion drawn up for that, and ſign'd and ſeal'd by his Majeſty, and by the Counſellors of *Denmark*, do more fully teſtify. And beſides, his *Daniſh* Majeſty conſents and promiſes in his Name, and for his Succeſſors, and for the Kingdom of *Denmark*, that to the End that her *Swediſh* Majeſty, and her Succeſſors, and Subjects in *Sweden*, *Finland*, *Ingria*, *Eſthonia* and *Livonia*, may have Security for enjoying, without Moleſtation, the Freedom of Commerce and Navigation in the Streights of the *Sound* and the *Baltick* Sea, according to theſe preſent Articles, to give to

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the ſaid Queen, her Succeſſors, and to the Kingdom of *Sweden*, as a Pledge and Security for the Obſervation of the ſaid Articles and Conventions for the Thirty Years next enſuing, all *Halland*, with its Forts, *Holm*, *Helmſtad*, and *Warburg*, together with all the Towns and Villages ſituated within that Territory, as well the aforeſaid *Holm*, *Helmſtadt*, and *Warburg*, as *Falkenburg*, and *Kaningſlachen*, and all the Lands and Fiefs there contained, according to the ancient Bounds, Limits and Borders of the aforeſaid Countries, upon Condition that her Majeſty and her Succeſſors, and the Kingdom of *Sweden*, ſhall enjoy and poſſeſs the ſaid Province of *Halland*, with all its Forts, Towns, Magiſtracies and Rights, Revenues, Ordinary and Extraordinary Superiorities, Royal Rights and Juriſdictions, Eccleſiaſtical and Civil, and all other Emoluments ariſing from the Lands, Waters, Rivers, Seas, Iſles, Ports, and Fields, without excepting any thing whatſoever, by whatſoever Name it may be called, in the manner that the Kings of *Denmark* have poſſeſs'd the ſame, and eſpecially in the manner that the preſent King *Chriſtian* IV. poſſeſſes and enjoys them, and all the Inhabitants of that Province, as well in the Country as in the Towns, Eccleſiaſtical or Secular, Gentry and Commonalty, inhabiting and dwelling therein, ſhall not be oblig'd, during the aforeſaid Term of Thirty Years, to take any Oath of Allegiance, Fidelity, or Obedience, but to her *Swediſh* Majeſty and her Succeſſors, and to the Kingdom of *Sweden*, until the ſaid Term of Thirty Years, without any Interruption, be expir'd, according to the Tenor of the preſent Convention, as in the particular Inſtrument for the Pledge and Security given by his *Daniſh* Majeſty, ſign'd and ſeal'd by all the Counſellors of his Kingdom, it is more fully expreſſed. And it is further agreed, concerning this Pledge and Security, that the aforeſaid Term of Thirty Years being expir'd, his *Daniſh* Majeſty, and the Kingdom of *Denmark*, ſhall be oblig'd, before the Reſtitution of the ſaid Province, either to let it ſtill remain for Security to her *Swediſh* Majeſty, and the Kings her Succeſſors, and to the Kingdom of *Sweden*, or to give in Lieu thereof as good a Pledge, with which her ſaid Majeſty, and the Kings her Succeſſors, and the Kingdom of *Sweden*, may be ſatisfied, that they may have Security for the Obſervation of the preſent Articles.

As this long Article does not particularly concern the Marine Affairs, I ſhould not have troubled the Reader with it, if I had not obſerv'd a very remarkable Paſſage, from which a weighty Inference may be reaſonably drawn, in favour of the general

Hypotheſis laid down in the firſt Article of this Treatiſe, *viz. That the Sea is capable of and ſubject to Dominion*, which, I think, does very plainly appear to have been the Sentiment of the Princes concern'd and of the Plenipotentiaries and other Politicians employ'd in the Management of this Treaty, ſince in the Perpetual and Temporary Ceſſion, that the King of *Denmark* makes in favour of the Crown and Kingdom of *Sweden*, of ſeveral Lands and Territories, moſt expreſs mention is made of *the Arms of the Sea, Seas, Waters, &c.* depending of the ſame, upon which I could very advantageouſly enlarge, if what is already ſaid in the aforeſaid Article needed any additional Arguments to prove the Solidity of that Suppoſition.

As the Fifteen following Articles have but little relation to Maritime Affairs, I ſhall leave them out, that I may have the more room for what is moſt eſſential to my preſent Purpoſe.

XLI. It is alſo agreed by theſe Articles, that all the Towns comprehended in the Hanſeatick League ſhall have a Share therein, and ſhall enjoy the Freedom of Commerce by Land and Sea in both Kingdoms, reſerving the Obſervation of the ancient Treaties between theſe Kingdoms and the Hanſeatick Towns for a better time, and no Injury ſhall be done to any Town, Citizen or Subject, for any Action perpetrated during the War.

XLII. Particularly the Town of *Dantzick* is comprehended in this Peace, and ſhall enjoy in the ſame manner it has hitherto done, the Liberty of Commerce by Sea and Land, in both the Kingdoms, and all Offences happen'd during this War ſhall be bury'd in perpetual Oblivion.

XLIII. This Treaty, for the greater Security, ſhall be ratify'd, and ſign'd and ſeal'd with the Privy-Seal of *Sweden* and *Denmark*, and likewiſe ſhall be ſign'd and ſeal'd by the Counſellors of both Kingdoms.

XLIV. Each Kingdom ſhall ſend a ſplendid Ambaſſy into *France*, to return Thanks for their Mediation, and invite that Kingdom to take Care of the Obſervation of the Treaty concluded the 13th of *Auguſt* 1645, *&c.*

This Treaty being ſo brought to a Concluſion on the 13th of *Auguſt*, Two Days afterwards another Treaty of Guarantee was concluded at *Suder-Okra*, between the Miniſters of the Queen of *Sweden* and the States General, by which thoſe Two Powers agreed, that in caſe the King of *Denmark* ſhould in any manner infringe

infringe his Treaties with either Party, they ſhould mutually aſſiſt each other, and ſtrenuouſly vindicate and maintain the Freedom and Immunity of Commerce and Navigation, according to the Laws of Nations, to ancient Cuſtom, and to the particular Conventions and Treaties between them.

The Twenty-fifth of *November* following was brought to a Concluſion at *Copenhagen* a Treaty between *Lewis* XIV. and his Mother the Queen Regent of *France* on one Part, and the King and Kingdom of *Denmark* on the other, by which they agree,

I. That there ſhall be in Time to come between the Two Kingdoms a perfect and inviolable Friendſhip, *&c.*

II. The Subjects of either Prince ſhall freely Trade between the Two Kingdoms, according to the reſpective Laws eſtabliſh'd in the ſame.

III. His moſt Chriſtian Majeſty's Subjects going into *Denmark* or *Norway* about their own or their Maſter's Affairs, whether concerning Commerce, or any other thing, ſhall have Liberty of Conſcience, and the King's Miniſters reſiding there ſhall be allowed the Exerciſe of the *Roman* Catholick Religion in their own Houſes.

IV. The Ships of either Kingdom entring into the Ports of the other, ſhall be favourably received and kindly treated, *&c.*

V. The Subjects of either Crown Trafficking by Sea, and paſſing by the Coaſts of the other Kingdom, ſhall not be forc'd to enter into any Port whatſoever, except they be bound thither; and if they come to an Anchor, they ſhall not be oblig'd to unlade their Goods, nor to exchange or ſell them, but ſhall have free Liberty to do what they think moſt convenient and advantageous for their Affairs.

VI. When *French* Ships, or Ships hired or laded by *French* Men, paſs thro' the Streights of the *Sound*, whitherſoever they are bound, or from whatſoever Place they come, or what Goods ſoever they may have aboard, they ſhall not be obliged to pay any other Toll than that which the King of *Denmark* has order'd in a ſpecial Treaty upon this Subject concluded the 27th of *September* of this preſent Year under the Counter-Seal, of which there is a Table of the Tax or Toll; and if in Time to come the *Dutch* pay any thing for Sea Marks and Fires, the *French* ſhall do the ſame.

VII. The Subjects of the King of *France* that ſhall carry into *Norway* the Product of their Country, or ſhall go thither in Ballaſt to purchaſe the Commodities they have Uſe for, ſhall pay no more for the Entry of the Goods they carry thither, nor for the Cuſtom of thoſe they purchaſe there, than what is now, or ſhall be in Time to come, impos'd upon the King of *Denmark*'s own Subjects.

VIII. And likewiſe the Subjects of the King of *Denmark* Trading into *France*, ſhall not pay any other, nor greater Duties than the *French* themſelves, or their other Friends or Confederates, and they ſhall be allow'd to ſell and diſpoſe of their Goods to whom they pleaſe, and at the Price they think fit.

IX. Ships of War and others going into the Ports of either Kingdom, ſhall be kindly receiv'd, paying for the Neceſſaries they want.

X. No Ships of War, or others, belonging to either of the Kingdoms, ſhall be forc'd into the Service of the other, without the Conſent of the Prince the Ships of War belong to, or of the Owners of the others, and that tho' the Captain of the Veſſel ſhould conſent.

XI. The Two Kingdoms ſhall uſe their utmoſt Endeavours for the Advancement of Commerce and Navigation, and ſhall ſuppreſs Pirates, *&c.*

XII. And as the Liberty of Commerce does principally conſiſt in maintaining the State of Things in the Weſtern, Northern, and *Baltick* Sea, in the ſame Condition that they have been hitherto, both Kings ſhall uſe their Endeavours to preſerve entire, and without any Alteration, the ancient Ballance and *Equilibrium*, that has been hitherto found to be the ſureſt Foundation for the Publick Peace and Tranquillity.

The other Five Articles of this Treaty are not very material to our Point.

Sign'd and ſeal'd at Copenhagen *the* 15*th of* November 1645, *&c.*

The next Treaty of this nature that occurs, is that by which the Town of *Lubeck* renew'd their Old League with the States General, who, notwithſtanding their late Accommodation with *Denmark*, the better to bring that Court to a Compliance with their Deſires, gladly enter'd into a freſh Alliance with the ſaid Towns, in which they more plainly diſcover'd their Diſcontents with the *Daniſh* Impoſts upon their Ships than in any precedent Treaty, for there they plainly declare their Reſolution of maintaining the

the Freedom of their Navigation in the *Baltick*; which Reſolution of theirs, and the Meaſures they had fallen upon to make it effectual, did probably incline the Court of *Denmark* to come to an Agreement with them, by a Treaty concluded by his Ambaſſador at the *Hague* the 12th of *February* 1647, which Treaty, tho' it be very long, as it contains a great many Things that are not unworthy the Peruſal of the curious and attentive Reader, I have thought fit to give the World a full and exact Tranſlation thereof in the following Terms, to which I was ſo much the more inclin'd, that it may ſerve to give to the World ſome diſtinct Notions of the great Trade that the *Hollanders* drive in the Northern Seas.

ARTICLE III.

A Treaty of Commerce concluded between Chriſtian IV. *King of* Denmark *and the united Provinces of the Low Countries, concluded at the* Hague *the* 12*th of* February 1647.

I *Corfits Ulefeldt* Counſellor of State, firſt Maſter of the Houſhold, and Governor of the Iſle of *Moen*, &c. Ambaſſador Extraordinary from his Majeſty the King of *Denmark*, *Norway*, &c. My moſt gracious King and Lord, to the High and Mighty Lords the States General of the united Provinces on one Part, and We *John* Lord of *Gent*, and one of the Nobles of *Guelderland*, *Gerard Scaep*, ancient Burgomaſter and Counſellor of the City of *Amſterdam*, and Curator of the Univerſity of *Leyden*; *Nanning Keyſer* Counſellor and Penſionary of the Town of *Horn* in *Weſt-Frieſland*, *Jacob Veth* Counſellor and Penſionary of the Town of *Middleburg* in *Zeland*, *Gilbert vander Hoolick* ancient Burgomaſter of the Town of *Utrecht*, *Charles van Roorda* Grietman of *Idaderabel*, *John vander Beeck* of *Doornick* and *Crytenberg*, Burgomaſter of the Town of *Daventer*, *Hieronymus Eyben*, *Hoovelingh* of *Niehove*, Burgomaſter of the Town of *Groningen*, Commiſſaries Deputies, and provided with ſufficient full Powers from the High and Mighty Lords the States General of the united Provinces on the other Part. Be it known by theſe Preſents, That on the 13th Day of the Month of *Auguſt* in the Year laſt paſt 1645, there was a Treaty agreed to and concluded at *Chriſtianople* between his Majeſty the King of *Denmark* and *Norway* and the High and Mighty Lords the States General of the united

united Provinces, containing, among other things, that in Time to come there ſhould not be levy'd any greater Duties or Toll in *Norway*, nor in any other Manner, or upon any other Account, than was practis'd in the Year 1628, till his Majeſty and their High Mightineſſes ſhould agree upon a ſure and certain Method, according to which the Tolls and Taxes upon Wood ſhould be paid at ſo much *per* Laſt; and his Majeſty having offer'd to treat with their High Mightineſſes concerning that Affair with all convenient Speed, we the above-named Lords Commiſſioners being for that Effect aſſembled, have, after a diligent Negotiation, agreed and concluded what is under.

I. In the firſt place, All the Subjects of the united Provinces of the Low Countries, from the Day of the Date of this Treaty, till the Twenty-third Day of *Auguſt* N. S. in the Year 1685, ſhall pay the Tax or Toll in *Norway* as follows.

II. All Ships ſailing from the ſaid united Provinces of the Low Countries to *Norway* ſhall repair to Five or Six commodious Havens of the ſaid Provinces, to be there meaſur'd and mark'd, by ſuch as ſhall be appointed for that Service on both ſides, for which there ſhall be Three Perſons nam'd by the King of *Denmark*, beſides another Perſon who ſhall have an Inſpection over them, and their High Mightineſſes, if they pleaſe, may alſo appoint the like Number of Perſons, with one Inſpector alſo on their ſide.

III. The Ships ſhall be exactly and faithfully meaſur'd, according to their Depth, Length and Breadth.

IV. And that no Miſunderſtanding may ariſe between the *Daniſh* and *Dutch* Meaſurers and Inſpectors, we have thought it convenient to propoſe a Model, according to which thoſe Calculations and Meaſures ſhall be made, Copies of which Model or Table, as it is here incorporated in this Treaty, ſhall be deliver'd into the Hands of the Meaſurers and Inſpectors, who ſhall be regulated thereby.

A Table

A Table or Model for meaſuring the Ships, according to the Meaſure of Amſterdam.

THE Length ſhall be taken from the exterior part above the Beak or Beak-head of the Ships in one End, to the ſame part of the Beak in the other End.

The Breadth ſhall be taken from the oppoſite inner Planks of both ſides of the Ship before the Main-Maſt.

The Depth or Capacity of Ships ſhall be meaſured between the Main-Maſt and the Mizen-Maſt, where it is moſt ſhallow, and wideſt near the Pump, from one ſide to the other; and afterwards they ſhall meaſure from the middle of the meaſuring Line, thro' the Wood, to the bottom of the Hold; after which they ſhall proceed in the following manner.

A Ship One Hundred and Twenty-five Foot in Length, Twenty-five Foot in Breadth, and 14 Foot in Depth, with a half Deck the Length of the great Hatches, ſhall be judg'd to contain a Hundred and Five and Fifty Laſts.

A Ship One Hundred and Twenty-three Foot in Length, and Twenty-four and a half in Breadth, and Fourteen in Depth, with a half Deck, One Hundred and Forty-ſix Laſts.

A Ship One Hundred and Twenty-two Foot in Length, Twenty-four and a half in Breadth, and Thirteen and a half in Depth, with a half Deck, One Hundred and Thirty-eight Laſts.

A Ship One Hundred and Twenty Foot in Length, Twenty-four in Breadth, and Thirteen and a half in Depth, having a half Deck, One Hundred and Thirty Laſts.

A Ship One Hundred and Eighteen Foot in Length, and Thirteen in Breadth, with a half Deck, One Hundred and Twenty-three Laſts.

A Ship One Hundred and Sixteen Foot in Length, Thirteen in Depth, with a half Deck, One Hundred and Eighteen Laſts.

A Ship One Hundred and Fourteen Foot in Length, Twenty-three and a half in Breadth, and Thirteen in Depth, with a half Deck, One Hundred and Twelve Laſts.

A Ship One Hundred and Twelve Foot in Length, Twenty-three in Breadth, and Thirteen in Depth, with a half Deck, One Hundred and Seven Laſts.

A Ship One Hundred and Ten Foot in Length, Twenty three in Breadth, and Twelve and a half in Depth, with a half Deck, One Hundred and One Laſts.

A Ship

A Ship One Hundred and Eight Foot in Length, Twenty-two and a half in Breadth, and Twelve and a half in Depth, with a half Deck, Ninety Six Lasts.

A Ship One Hundred and Six Foot in Length, Twenty-two in Breadth, and Twelve and a half in Depth, with a half Deck, Ninety Lasts.

A Ship One Hundred and Three Foot in Length, Twenty-two in Breadth, and Twelve and a half in Depth, with a half Deck, Eighty Six Lasts.

A Ship Ninety-five Foot in Length, Twenty-one and a half in Breadth, and Twelve in Depth, Seventy-three Lasts.

A Ship 90 Foot in Length, Twenty-one and a half in Breadth, and Twelve in Depth, Sixty-six Lasts.

A Ship Eighty-five Foot in Length, Twenty-one in Breadth, and Eleven and a half in Depth, Sixty Lasts.

A Ship Eighty Foot in Length, Twenty-one in Breadth, and Eleven in Depth, Eighty Lasts.

A Ship One Hundred and Twenty-six Foot in Length, Twenty-five in Breadth, and Thirteen in Depth, with a compleat upper Deck, having Four Foot in Height between Decks, shall be judg'd to contain about One Hundred and Seventy-two Lasts.

A Ship One Hundred Twenty-four Foot in Length, Twenty-five in Breadth, and Thirteen in Depth, with a full Deck Three Foot and a half high, One Hundred and Sixty-two Lasts.

A Ship One Hundred and Twenty-two Foot in Length, Twenty-four and a half in Breadth, and Thirteen in Depth, with a Deck of Three Foot and a half, One Hundred and Fifty-three Lasts.

A Ship One Hundred and Twenty Foot in Length, Twenty-four and a half in Breadth, and Thirteen in Depth, with a Deck Three Foot and a half high, One Hundred and Forty-five Lasts.

A Ship One Hundred and Eighteen Foot in Length, Twenty-four in Breadth, and Twelve and a half in Depth, with a Deck of Three Foot and a half, One Hundred and Thirty four Lasts.

A Ship One Hundred and Thirty Foot in Length, Twenty-eight in Breadth, and Twelve in Depth, with an upper Deck Six Foot high, shall be judg'd capable of carrying about One Hundred and Ninety-five Lasts.

A Ship One Hundred and Twenty-six Foot in Length, Twenty-six in Breadth, Twelve in Depth, and having a Deck as above, One Hundred and Seventy Lasts.

A Ship

A Ship One Hundred and Twenty-four Foot in Length, Twenty-five in Breadth, and Eleven and a half in Depth, having a Deck Five Foot and a half high, One Hundred and Sixty-six Lasts.

A Ship One Hundred and Twenty-two Foot in Length, Twenty-five in Breadth, and Eleven in Depth, with a Deck Five Foot high, One Hundred and Fifty-six Lasts.

A Ship One Hundred and Twenty Foot in Length, Twenty-four and a half in Breadth, and Eleven in Depth, with a Deck Four Foot and a half high, One Hundred and Forty-six Lasts.

A Ship One Hundred and Eighteen Foot in Length, Twenty-four in Breadth, and Ten and a half in Depth, with a Deck of Four Foot and a half, One Hundred and Thirty-five Lasts.

A Ship One Hundred and Sixteen Foot in Length, Twenty-three and a half in Breadth, and Ten in Depth, with a Deck of Four Foot and half, One Hundred and Twenty Lasts.

A Ship One Hundred and Twelve Foot in Length, Twenty-three in Breadth, and Ten in Depth, with a Deck of Four Foot and a half, One Hundred and Thirteen Lasts.

A Ship One Hundred and Ten Foot in Length, Twenty-two in Breadth, and Ten in Depth, with a Deck of Four Foot and a half, One Hundred and Ten Lasts.

Such Vessels as shall not be found to be precisely of the same Form or Burthen above mentioned, shall be taxed by the Measurers and Inspectors, conformably to the aforesaid Regulation, and in Proportion to their Burthen.

And the aforesaid Calculation being made by the Last of St. *Ubes*, of Corn or Salt, as the Vessels cannot be so deeply laded with Wood, because of its Lightness and Stiffness, one Fifth Part of the Calculation of every Vessel shall be abated.

V. The Ships being measured in the aforesaid manner, shall be mark'd upon the Sail-Yards, and upon the Beak-Heads, fore and aft, with a hot Iron, and Two Acts or Certificates shall be drawn up for the Ship, which shall be sign'd by the Measurers and Inspectors of both sides, one of which shall be delivered to the Master of the Ship, and another deposited in the Hands of the Magistrates of the Place where the Ship is measured.

VI. There shall likewise be kept Two Records or Controlls of Ships so measured, which shall likewise be sign'd by all the Persons that measure the same, one of which shall be sent into *Denmark*, to be communicated to the Commanders of the Castles, and other Officers, that Recourse may be had to the same, in Case of

Need, and the other ſhall remain at the Diſpoſal of their High Mightineſſes.

VII. Such Veſſels ſhall be meaſured before the End of the Month of *April* at lateſt, and ſooner if it be poſſible, in order to which both Parties ſhall uſe their utmoſt Diligence.

VIII. All Veſſels ſailing from the united Provinces to *Norway*, and having aboard a Certificate of their Meaſure in due Form, ſhall pay at their going out of the Kingdom according to their Burden, as under, that is to ſay, any Ships carrying according to the Certificate of the Meaſurers, One Hundred and Twenty-five Laſts, ſhall pay the Tax but for One Hundred; and ſo all Ships carrying Wood out of *Norway* ſhall pay but for four Fifths of their Burden, the other Fifth being abated, in Conſideration that they have been well and faithfully meaſured, concerning which his Majeſty ſhall give the neceſſary Orders to all his Cuſtom-Houſes of *Norway*.

IX. Veſſels ſailing from the united Provinces of the Low Countries to *Norway*, and carrying Merchandizes thither, ſhall only pay for ſuch Merchandizes the Duties his *Daniſh* Majeſty's Subjects are obliged to pay, ſo that the Inhabitants of the ſaid Low Countries ſhall not be at any greater Charge than thoſe of *Denmark* and *Norway*.

X. All the Ships ſailing from the united Provinces of the Low Countries to *Norway*, and having aboard a faithful Certificate of their Meaſure, as is above expreſſed, ſhall give a Rix Dollar *per* Laſt, deducting, as is above ſaid, one Fifth of the Number of Laſts.

XI. The ſaid Veſſels lading Wood, may likewiſe in the ſame Harbours lade Pitch, Tar, Skins, Iſinglaſs, or any other Commodity that may be tranſported, paying the aforeſaid Duty of One Rix Dollar *per* Laſt, and no more.

XII. This ſhall only be underſtood of Veſſels tranſporting Wood from *Norway*, and in the Harbours where Wood is ſold, but not from other Places, and eſpecially from *Bergen*, where that Trade is not driven, in which Harbours the Subjects of the united Provinces ſhall pay the ſame Duties for other Goods that his *Daniſh* Majeſty's Subjects pay; and this ſhall only be underſtood of Veſſels laded with Wood from *Norway*, and from the Harbours where that Trade is driven, and no where elſe.

XIII. All the other Duties and By-Tolls, of what Name ſoever, that have been hitherto impos'd upon that Trade, ſhall be, and are aboliſh'd by theſe Preſents, and none other ſhall be impos'd in

in Time to come, but that already mention'd, call'd, *The Toll of the Laſt of Wood*, of whatſoever Name or Nature it may be.

XIV. Any of the ſaid Veſſels laded with Wood having paid the Toll according to the Certificate of its Meaſure, the ſaid fifth Part being deducted, ſhall be no further troubled or moleſted with ſearching or unlading, under any Pretence whatſoever, but ſhall be in full Liberty to depart upon the Payment of the ſaid Duty or Toll.

XV. There ſhall be no Diſtinction made of the Quality of the Wood that is laded, whether it be of the beſt, or of the middle, or coarſeſt ſort, and much leſs ſhall ſuch Veſſels be ſearched, unladed, or detained; ſo that if the ſaid Veſſels of the united Provinces of the Low Countries ſhould load any Oak, or other prohibited Wood, no Search ſhall be ordained, but the prohibited Wood ſhall be detain'd, only when it is found out of the Veſſels, in which Caſe the Subjects of the ſaid united Provinces ſhall not ſuffer in any manner, neither in their Perſons or Effects, nor ſhall be incommoded or moleſted under any Pretence whatſoever.

XVI. The Expences laid out in the Harbours of *Norway*, for the Preſervation of Foreign Ships, ſuch as Iron Rings, and other Conveniences, ſhall not be required of the Ships that have been taxed and meaſured, as is above expreſſed, but on the contrary all neceſſary Conveniences and Aſſiſtance ſhall be given them, without any further Charge.

XVII. During the Term expreſſed in this Treaty no Alteration nor Innovation ſhall be made directly nor indirectly, by heightning the Tolls or Taxes upon the Laſt of Wood, or in any other manner, or under any Pretence whatſoever, but all things ſhall remain in the ſame State as is herein expreſſed, *viz.* One Rix Dollar *per* Laſt for every Ship lading Wood, and carrying it out of the Kingdom.

XVIII. If any new Ships, or others not meaſured, ſail to *Norway* to lade Wood, they ſhall be meaſur'd and tax'd in *Norway* by Three or more *Danes* or *Norwegians*, and as many *Dutch* Boatmen, according to the Model already inſerted, and the exact Capacity or Burthen of the Ships ſhall be mark'd and ſign'd by thoſe that meaſure them, and the Duties paid accordingly, deducting one Fifth, as above.

XIX. And it ſhall be henceforth allowable for the Subjects of the united Provinces of the Low Countries to tranſport from *Norway* Lenden Trees, Aſh Trees, Elm Trees, Wood for Sail-Yards and Maſts, from Sixteen to Twenty Palms, and no Diſtinction ſhall be made with regard to the Toll between the different ſorts of

Wood that are exported, but all ſhall pay by the Laſt, as is above expreſſed.

XX. When his *Daniſh* Majeſty, for the Exigences of his own Dominions, ſhall have need of Linden, Aſh and Elm Trees, and of Sail-Yards and Maſts of Sixteen Palms, the Merchants ſhall not in that Caſe export ſuch Timber without his Majeſty's expreſs Permiſſion, provided however that in that Caſe what is ſaid and ſtipulated in the Fifteenth Article concerning Oak be duly conſidered.

XXI. If in any Time to come it ſhould happen that the Tolls and Duties ſhould be diminiſh'd in *Norway*, in favour of his Majeſty's Subjects, or thoſe of other Nations that tranſport Wood out of *Norway*, and not into the proper Dominions of his Majeſty, but into Foreign Countries, in that Caſe the Subjects of their High Mightineſſes ſhall pay no more than they, but be tax'd conformably to them.

XXII. The whole without Prejudice to the precedent Treaty of the 13th of *Auguſt* New Stile in the Year One Thouſand Six Hundred and Forty-five, concluded at *Chriſtianople* between his ſaid Majeſty and their High Mightineſſes, which in all its Parts ſhall remain in full Force and Power, in as far as it is not altered by this.

XXIII. And as by the precedent Articles agreed to by us the reſpective Ambaſſadors and Commiſſaries, ſuch things as could not be brought to a Concluſion concerning the Seventh and Ninth Articles of the aforeſaid Treaty in the Year 1645 between his Majeſty the King of *Denmark* and *Norway* and the High and Mighty Lords the States General, are now entirely determin'd, we have reciprocally conſented and promiſed to each other, that each Party ſhall cauſe to be delivered to the other, in the Name of their reſpective Maſters, within Three Months after the Delivery of this Treaty, a Ratification thereof in good and due Form; and their High Mightineſſes may make uſe of their Reſident in the *Sound*, or any other that they think convenient, for the Delivery of theirs, which as ſoon as his Majeſty has received, he ſhall ſign the other, and cauſe it to be ſign'd by the Prince of *Denmark*, and the Lords of the Council, in order to the Delivery thereof.

XXIV. All which Points and Articles have been agreed to and concluded by us the reſpective Plenipotentiaries and Commiſſaries mentioned at the beginning of this Treaty, in witneſs whereof we have ſign'd theſe Preſents with our Hands, and confirm'd the ſame with our Seals, of which Two Inſtruments have been drawn up of the ſame Tenor, of which each Party

Party has taken one. Done at the *Hague* the Twelfth of *February* 1647. The moſt illuſtrious and moſt mighty Prince and Lord *Chriſtian* IV. King of *Denmark*, *Norway*, and of the *Goths* and *Vandals*, &c. having been pleas'd to ſend to their High Mightineſſes the States General of the united Provinces the Heer *Corfits Vleſeldt*, Knight and Governor of the Iſle of *Moen*, &c. firſt Steward of the Houſhold, and Counſellor of State to his *Daniſh* Majeſty, and his Ambaſſador Extraordinary, to negotiate with the ſaid Lords the States General concerning ſeveral Matters of Importance, and among other things to agree upon a Duty or Toll at ſo much *per* Laſt on all the Wood tranſported out of *Norway*; and at the ſame time his Excellency having been acquainted, by Order of their High Mightineſſes, with the great Inconveniences occaſioned to the Veſſels of the united Provinces navigating thro' the *Sound* towards the Eaſt, by reaſon of Paſſes from the Cuſtom-houſe, and the counting of Twelve Barrels of round Seed for a Laſt, inſtead of Twenty-four Barrels, the ſaid Lord Ambaſſador has promis'd and oblig'd himſelf to uſe his Endeavours with his ſaid Majeſty for obtaining Orders for cauſing the ſaid Complaints to ceaſe, and that the Veſſels belonging to the Subjects of their High Mightineſſes may be and remain free from all Extortion of Money, and from the Inconveniences of ſearching, and other Retardments; and further, that Twenty-four Barrels of Linſeed, and other round Seeds, be allowed to the Laſt, according to the Cuſtom of Merchants, and in Conſequence of the Third Article of the laſt Treaty concluded between his *Daniſh* Majeſty and their High Mightineſſes in the Year 1645.

And the ſaid Lord Ambaſſador has further promiſed in the Name of his ſaid Majeſty, that in Time to come, for preventing all Misfortunes, there ſhould be Buoys and other Sea Marks put up, for the Utility and Conveniency of Commerce and Navigation, provided that each Ship in her Lading ſhould pay to his Majeſty, or his Officers, Four Rix Dollars, and each Ship in Ballaſt Two, in witneſs whereof we his Majeſty's ſaid Ambaſſadors, and we the Commiſſaries and Deputies of the ſaid Lords the States General have ſign'd theſe Preſents with our Hands, and put our reſpective Seals thereto, by virtue of our reciprocal full Powers and Procurations, and Two Inſtruments of the ſame Tenor have been drawn up, one for each Party, delivered at the *Hague* the Twelfth of *February* 1647.

And

And as during the Years 1645 and 1646 ſeveral laded Veſſels belonging to the united Provinces have paſſed the *Sound* towards the Eaſt, and likewiſe Veſſels in the Ballaſt, without having paid in paſſing or repaſſing any Toll or Impoſt, or without having been any where recorded, ſo that on this Occaſion it might be difficult to ſtate a clear Account; For theſe Cauſes I *Corfits Vlefeldt*, Ambaſſador, *&c.* aforeſaid, on one part, and we the Commiſſaries and Deputies of the States General likewiſe aforeſaid, on the other part, have conſented and agreed that the States ſhall pay for the ſaid Failures, in paying of Tolls upon the Sum of One Hundred and Twenty Thouſand Rix Dollars, which ſhall be paid in this Country, upon the Production of his Majeſty's Diſcharge by ſuch as his ſaid Majeſty ſhall authorize for that Effect, at the Delivery of the Ratifications of this preſent Treaty, which are to be interchang'd on both ſides within Three Months after the Date of theſe Preſents; in Witneſs whereof we the Ambaſſadors of the ſaid King, and we the Commiſſaries and Deputies of the States General, have ſign'd theſe Preſents with our Hands, and confirm'd them with our reſpective Seals, by Virtue of our full Powers; and Two Inſtruments of the ſame Tenor have been drawn up, and one delivered to each Party at the *Hague* the Twelfth of *February* 1647.

Having thus given ſome Account of the Situation of the Marine Affairs in the Northern Countries, and on the Treaties concluded on that Subject between the Crowns of *Sweden* and *Denmark*, the united Provinces and the Hanſe Towns, I muſt now return to *Britain*, where the fatal Civil Diſſentions were at that time arrived to their greateſt Height, and had reduced the native Strength of this flouriſhing Iſland to ſo low an Ebb, that it was but in a very ill Condition to diſpute its ancient Rights with ſuch as thought that a fit Opportunity to put an End to the Pretenſions of *Britain* to the Sovereignty of the Sea.

However, it muſt certainly be own'd, that the then rebellious Powers and Governors of this Nation did exert themſelves to the utmoſt of their Ability, in gallantly vindicating the Title which had been tranſmitted to them by their Predeceſſors to the Sovereignty of the *Britiſh* Sea, which was the principal Cauſe of the Miſunderſtandings that then fell out between the *Engliſh* and *Dutch*, as the Reader will eaſily gather from the following Compendium of ſeveral publick Acts and Inſtruments both of the Parliament of *England* and States of *Holland*, in which each Party endeavours

deavours to juſtify themſelves, and lay the Blame of all thoſe Diſorders upon their Neighbours.

The firſt of theſe Acts that comes in order to be mentioned, is a Manifeſto publiſhed by the Parliament of *England* againſt the States General of the united Provinces the 31ſt of *July* 1652, in which they ſet forth, 'That it is an almoſt incredible Ingratitude 'in the *Dutch* ſo baſely to requite the generous Efforts by which 'the People of this Nation had reſcu'd them from the Tyrannical 'Oppreſſion of the *Spaniard* at a great Expence of *Engliſh* Blood 'and Treaſure, in return of which they repreſent, that the *Dutch* 'after having ſeverely fomented the Diviſions during the Civil 'Wars of *England*, did afterwards both openly and ſecretly ob'ſtruct the Peace of the Kingdom, and in the Year 1648 made 'conſiderable Preparations to carry on a War againſt it.

'They likewiſe call to Mind the Cruelty and Treachery with 'which they aſſaulted and maſſacred the *Engliſh* in *Amboyna*, and 'tranſiently accuſe them of many other ſiniſtrous Attempts of the 'like nature.

'In the next place they accuſe them of having neglected the 'friendly Meaſures propos'd by the Parliament of *England* for ac'commodating of all Differences, and confirming their mutual Li'berty and Freedom, *&c.* adding, that after they had ſent an En'voy to the *Hague*, and the States had refuſed him Audience, the 'Parliament having ſent thither a ſecond, he was there moſt bar'barouſly and villanouſly murder'd, and the States had not taken 'any Care to puniſh the Actors of that horrid Crime.

'They further repreſent, that while the *Dutch* Ambaſſadors 'were in *England*, to amuſe the Government with diſingenuous 'Promiſes and Proteſtations, they ſecretly and clandeſtinely aſſiſt'ed the Enemies thereof, and only ſpun out the Time with ſham 'Pretences, without any Likeneſs of Reality or Sincerity; to 'which they add, that the Commonwealth of *England* having, af'ter the Pacification of their own inteſtine Broils, ſent over a 'ſplendid Ambaſſy to *Holland*, with ſufficient Inſtructions for end'ing all former Controverſies, and to give all poſſible Marks of 'their Sincerity and Good-will towards thoſe of the united Pro'vinces, their Ambaſſadors were contumelioufly uſed and revi'led, and all ſorts of Indignities offered to them, without any Re'gard to their Character or Reſpect to the Nation they repreſent'ed, they themſelves having been inſulted and affronted, and 'their Servants and Attendants abus'd to a high Degree, and no 'Notice taken nor Satisfaction given by the States for ſuch an un'accountable Practice.

'But

'But that notwithſtanding the ſincere Inclinations of the Commonwealth of *England* to cultivate a good Friendſhip and Correſpondence with the united Provinces, they always delayed and protracted the Negotiations concerning the ſame, till ſeeing the Succeſs the *Engliſh* had every where obtained, they at laſt ſent over their Ambaſſadors to *England*, where when they were arrived, they ſtill delayed, under various Pretences, the Negotiations that were ſet a foot, alledging, that they were not ſufficiently impower'd, pretending to write over about thoſe Matters to their Principals, ſo that nothing could be determined till the States General could be conveniently aſſembled, by all which it did plainly enough appear that the Friendſhip they pretended was no ways real or ſincere.

'After which their Ambaſſadors having, during the Conferences, acquainted the Parliament that the States had reſolved to Arm One Hundred and Fifty Ships, beſides the Fleet they already had at Sea, which they only did with a Deſign to protect their Trade, and encourage Navigation, without any ſiniſtrous Intention againſt *England*, tho' the States themſelves are not ignorant of the Deſign they had in ſetting out ſo great a Fleet, tho' there was no Appearance of any thing like an Enemy in theſe Seas.

'To all this however the Parliament (which they thought to have lull'd aſleep by theſe Pretences) did not give any Anſwer, but ſedulouſly apply'd themſelves to provide for their own Defence, and mean time omitted nothing that was in their Power to bring the Negotiations that were depending with the *Dutch* to a happy Concluſion; notwithſtanding whereof the *Dutch* immediately got together their whole Fleet in one Place under Admiral *Trump*, whoſe Deſign will ſufficiently appear to any Perſon that conſiders his Behaviour, joined to ſome other Paſſages precedent to that Equipment, and particularly that of a certain *Dutch* Ship, who meeting an *Engliſh* Man of War commanded by Captain *Young*, and being friendly required by him to pay the Honour that is uſually paid to the Ships of War of this Nation, as another Ship in Company with the ſame had done, and that not only as a cuſtomary Piece of Civility, but as a Teſtimony of the undoubted Right the *Engliſh* have to the Dominion of the adjacent Sea, which is acknowledg'd by all the neighbouring Princes and Republicks, and which (not to repeat the undeniable Proofs and weighty Arguments by which that has been already evinc'd) particularly the States themſelves and their Predeceſſors have acknowledg'd, the Maſter of the ſaid Ship did nevertheleſs

refuſe

'refuſe to comply with that Deſire, aſſuming, that it would be 'deemed a capital Crime in him to do it.

'This Paſſage was followed by that hoſtile and heinous Inſult 'of Admiral *Trump*, perpetrated againſt Friends and Neighbours 'that had given many remarkable Teſtimonies of their ſincere 'Deſire to continue and confirm the ſame; and with ſo much 'Arrogance and Injuſtice was that Action perform'd, even during 'the Conferences that were holding, in order to enter into a 'ſtraiter League, that *Trump* himſelf pretended to uſurp what he 'refus'd to pay to us (tho' our own undoubted Right) and car-'ried the Affront to ſuch a height, that purſuing the Ships of this 'Republick, he attack'd them in an hoſtile manner upon their 'own Coaſts, and in their own Friths and Roads, with a Deſign 'to begin an unexpected War, in hopes to ruin entirely the 'Trade and Navigation of this Commonwealth, *&c.*

The reſt of this Manifeſto does only contain ſome further Remonſtrances, by which the then Government of England *endeavoured to vindicate their Proceedings againſt the States of* Holland, *with whom they declare that they are forc'd againſt their Inclination to go to War, who anſwer'd the* Engliſh *Manifeſto with a Declaration given at the* Hague *the Second of* Auguſt *following, in which they, on the other hand, pretend to lay all the Blame of thoſe Confuſions upon the* Engliſh, *whoſe Manifeſto, as well as that of the* Dutch, *is in effect nothing elſe but a Declaration of War, as you may have obſerved by the foregoing Compendium of the firſt, and the following Abridgment of the latter.*

ARTICLE IV.

An Abridgment of the Manifeſto of the States General againſt the Nation and Government, &c. *of* England. *Given at the* Hague *the Second of* Auguſt 1652.

THE States General, *&c.* being ſenſible that all lawful Powers being ordained of God, for the Good of their Subjects, are not only obliged to govern them with Moderation and Order, but likewiſe to endeavour to prevent, and prudently to avert whatever may threaten them from Abroad; and being all ſenſible of the Neceſſity of living well with, and procuring by all ſort of good Offices, the Amity and Friendſhip of other

States, and eſpecially of their Neighbours, knowing, that in caſe of any accidental or other Miſunderſtandings, they ought to exert themſelves to the utmoſt of their Power, in endeavouring to remove the ſame in a peaceable and friendly manner; they are not however ignorant, that when all other Methods prove ineffectual, it is reaſonable and neceſſary to make uſe of the Power that God has put in their Hands, and to repulſe vigorouſly and courageouſly by Force of Arms the Violence and Injuries exerciſed upon their Subjects and People, in order to procure Satisfaction and Reparation for the Damages ſuffered, and Reſtitution for what has been unjuſtly taken away. And accordingly having hitherto endeavoured to maintain our ancient Amity and Friendſhip with the *Engliſh* Nation, and having of late ſeen that Nation divided in it ſelf, and tore to pieces by inteſtine Broils and Diviſions, our Hearts were filled with Grief and Heavineſs, and we took as much Care as in us lay that nothing ſhould be tranſported from our Country and Ports that might foment their Diviſions, and by the Continuation of the War might render their Cure more difficult and leſs poſſible; but on the contrary, underſtanding that their Diviſions had produced very great Deſolations and Miſeries, and that the Famine raged in ſeveral of their Provinces, being thereto required by both Houſes of the then Parliament, we and our good Subjects were ſo ſenſibly touch'd at the recital of ſo many complicated Miſeries and Miſchiefs, that by virtue of our Permiſſion, granted at the earneſt Deſire of the ſaid Parliament, as aforeſaid, a conſiderable Sum of Money, amounting to ſeveral Tuns of Gold, was raiſed by the Liberality of theſe Provinces, and ſent over to relieve the Neceſſities of ſuch as were in Miſery, for which we received Letters of Thanks from the aforeſaid Parliament, confirmed verbally with their Reſident with us.

But for a further Proof of the Sincerity of our Affection, of which we had given them ſuch evident Marks, in order to compoſe the Differences and Miſunderſtandings between them, we ſent over, for the Advancement of ſo great a Work, an Embaſſy to the King and Parliament; but the *Almighty*, whoſe Judgments are incomprehenſible, not having ſuffered their Diviſions to be terminated by ſuch a friendly Agreement, that Nation having now received a Form of Government quite different from that it then had, the aforeſaid Government having under ſpecious Pretences afterwards offered to enter into a Treaty of a fair Alliance and Friendſhip with us, believing that they were ingenuous and ſincere, and looking upon that Project as very convenient and neceſſary for the Tranquillity and Security of Commerce and Navigation, as well

well for our ſelves as for all our Neighbours and other Kingdoms and States who ſupport themſelves by Trade. And for avoiding all the riſing Difficulties and Differences occaſioned by the Concurrence of the ſame Intereſts between the aforeſaid Government and ours, we gave them to underſtand, that the Offer they made us was very acceptable to us, and they having ſent over their Ambaſſadors Extraordinary the Sieurs *Oliver*, *John* and *Walter Strickland*, we endeavoured by all poſſible Methods, as much as the Conſtitution of our Government could allow, to find out Means to bring that Treaty to a Concluſion; ſo that the ſaid Ambaſſadors entring into a Conference with our Deputies, and the former having delivered general Projects, tho' they were earneſtly required by our Deputies to explain their general Propoſitions, and deſcend to Particularities, a counter Project being propoſed to them, when they had but lightly touch'd the Matter ſoon after firſt Audience, they pretended to be going; but having, after many Perſuaſions, conſented to ſtay a little longer, and having preſented a more ſpecial Project, we ſo induſtriouſly handled the Matter on our Part, that they eaſily ſaw there was but little Difference between us; and finding us come home to the Purpoſe, deſiring of them a more expreſs and poſitive Declaration, they declined that under Pretence of their ſudden Departure. Notwithſtanding whereof, conſidering that a ſhort Delay could not operate any conſiderable Alteration in the thing, we preferring the Excellence and Benefit of ſo good a Work to the outward Ceremonies and Formalities, upon the Proteſtation the ſaid Ambaſſadors made us at their Departure, of the Sincerity of the Intentions of that Government towards us, we reſolved to ſend a conſiderable Embaſſy into *England*, which we accordingly did in the Month of *December* laſt; tho' that Government, ſince the Departure of their Ambaſſadors, had publiſhed a certain Decree that neither ſavoured of the good Neighbour nor the good Friend, ſince thereby the accuſtomed Liberty of Commerce and the Correſpondence between the Two Nations was very much diminiſhed. Notwithſtanding whereof, in hopes that all Diſſentions ſhould have been ſuddenly ended by the Treaty, we did our utmoſt Endeavours to bring it to a happy Concluſion; but on the contrary, the ſaid Government, far from having any regard to the Requeſts we made them, that the Execution of that Decree ſhould be ſuſpended till the Concluſion of the Treaty, and the Ships and Goods of our good Subjects, that had been ſeized and taken by them, reſtored to the Proprietors, they did under ſeveral Pretences fall upon and attack on every ſide our Veſſels, and Pirates under their Cloak

did the ſame every where, and no Reparation could be obtained by our Ambaſſadors in any manner. And tho' ſuch a Multitude of Reaſons gave us juſt Cauſe to right our ſelves and Subjects by way of Repriſals, we abſolutely refuſed to do it, and would not ſuffer any Injury to be done them, in hopes that all things ſhould have been compoſed according to Equity and Juſtice. And having endeavoured on one ſide by our Ambaſſadors, and on the other ſide having equipt a conſiderable Fleet, to put a Stop to the Inſolence of the Pirates, we at the ſame time declared, that it was not with any Intention to incommodate any of our Friends or Allies, and particularly them, with whom we deſigned to entertain a good Friendſhip and Correſpondence.

And tho' this Declaration ought to have been taken as a Mark of our Sincerity and Candor, the aforeſaid Government did only endeavour, under various Pretences, to weaken our State, by ruining of our Commerce, as does plainly appear by that Inſtance of their Admiral, who meeting with Vice Admiral *Trump*, whom we had made Commander of our Fleet, the ſaid *Trump* not having ſoon enough (according to his Fancy) lowered his Flag, tho' it be evident by the Teſtimony of ſeveral indifferent Perſons, that he was actually a ſtriking his Sails, and occupied in hoiſting his Boat, to ſend and compliment the ſaid Admiral, he nevertheleſs gave him a full Broadſide, and forced him and the Ships that were with him to defend themſelves, who notwithſtanding were ſo moderate, that they were ſuperior in Number, and could have deſtroyed the Aggreſſors if they had pleaſed, they only kept upon the defenſive, to which Diſcretion their Adverſaries had ſo little Regard, that another of their Squadrons coming up, they fell upon the hindermoſt Veſſels of our Fleet, deſtroying one, and taking another with them.

Which Action that the Regency may cover with ſome ſpecious Pretences, they have cauſed a Report to be ſpread abroad as if we had been the firſt Aggreſſors at that Rencounter, and accordingly put themſelves in a Poſture to demand Reparation of the Injury they pretend to have received from us; but on the contrary, that Accident no ſooner came to our Knowledge, but we proteſted ſolemnly by our Ambaſſador, that it had not been committed by our Order, and that we were entirely ignorant of what had paſſed, as more fully appeared by a Letter from our Admiral, in which he recited Word for Word the Commiſſion and Inſtructions we had given him. And for a further Proof of the Sincerity of our Intentions to live well with that State, we earneſtly pray'd that an exact Enquiry might be made into the Matters, and that the Treaty which we thought to be in a very great Forwardneſs, might

might not be retarded by reaſon of that unlucky Rencounter, by which we had been mightily ſurprized.

But the aforeſaid Government having no regard to ſuch a reaſonable Deſire, did forthwith give Order to ſeize both Men of War and Merchant Ships, as many as they poſſibly could find belonging to us and our Subjects, which accordingly has been done, and all ſorts of Injuries and Violences whatſoever committed againſt us, by which a great deal of innocent Blood has been ſhed, and many of our good Citizens ruined.

Notwithſtanding all of which ill Uſage, we have ſent a ſecond Embaſſy Extraordinary, to endeavour to bring all Matters, and eſpecially that Difference concerning the Rencounter of the Two Fleets, to a friendly Accommodation; they injuriouſly alleged, for covering their own pernicious and odious Deſign, that we had equipt that Fleet on purpoſe to attack them as Enemies, tho' the Heer *Hadrian Pauw* our Ambaſſador, whoſe Employment of Penſionary of *Holland* giving him a Right to be preſent at all the Aſſemblies and Deliberations of the States, did moſt ſolemnly proteſt that never any ſuch thing had been projected here, and that far from any Commiſſion to do the *Engliſh* or any other Body any Injury, the Admiral had Orders to give that Government all poſſible Marks of our peaceable and friendly Diſpoſitions.

And becauſe the aforeſaid Regency pretended to make of that Action quite another thing than it really was and demanded Reparation for what was paſt, and Aſſurance that no ſuch thing ſhould happen in Time to come, our Ambaſſador aforeſaid told them openly, that in order to remove that Stumbling-block, or principal Difficulty occaſioned by the accidental Combat between the Two Fleets, and the eaſier to bring the Treaty (which was then ſo far advanced) to a happy Concluſion, a convenient Regulation ſhould be eſtabliſhed, and punctually obſerved in Time to come by the Veſſels of both Nations, proteſting that this State never had any Thought of diſputing with the *Engliſh* Nation the Honour and Dignity we had hitherto yielded them, requiring afterward, that during the Negotiations all hoſtile Attempts and Actions ſhould ceaſe; and further deſiring, that a due Enquiry might be made into the whole Matter, with Promiſe, that if our Admiral ſhould be found to be the Aggreſſor, the States ſhould not only diſown the Act, but puniſh the Actor according to the Importance of the thing, upon Condition that the *Engliſh* ſhould treat their Admiral in the ſame manner in caſe he ſhould be found to be in the wrong.

But

But they ſtill rejecting all Means of Reconciliation, and refuſing themſelves to propoſe any Project by which Things might be brought to an Accommodation, did continue to ſeize and rob our Ships, and at laſt were not aſhamed to demand of us an immenſe Sum of Money for the Loſs and Damage they ſaid they had ſuſtained, and the Charges they had been put to upon Account of the Fleet we put to Sea, after Payment of which Sum, or Security given for the ſame, all Acts of Hoſtility ſhould ceaſe; ſo that they having heap'd up Injuries upon Injuries, and committed all ſorts of Violences againſt us and our good Subjects, with a Deſign, by all theſe inſupportable Proceedings, by ruining our Trade, to weaken our Strength at Sea, and ſo take Poſſeſſion of the imaginary Empire to which that Government pretends over the Ocean, and beginning with us to extend it over all other Nations, and render them tributary if they could. *For theſe Cauſes* being reſolved to make uſe of the Power that God has put into our Hands for our own Defenſe, and that of our good Subjects, *&c.*

The following Lines of this Manifeſto contain in Sum a Declaration of War, which being made publick at the *Hague* the Second of *Auguſt* 1652, the Fifth of *December* following there was an Ordinance publiſhed by the States General, forbidding their Subjects all Commerce with *England*, and withal exhorting other Nations to abſtain from ſuccouring the *Engliſh* with ſuch Things as might be neceſſary in the War, and ſo might fall under the Notion of what is taken to be in that Caſe contraband Goods, according to the Cuſtom of Nations, threatning otherwiſe to ſeize and confiſcate the ſame, as in the aforeſaid Ordinance is more largely expreſſed, but with which I ſhall not trouble the Reader, ſince it is not any way material to our preſent Purpoſe. Nor ſhould I indeed have inſerted ſo much of the precedent Manifeſto, or Declaration of War, if it had not been worth the while to remark the Dilemma into which the States General did thereby bring themſelves, ſince after having declared that they never intended to diſpute with the *Engliſh* Nation the Honour and Dignity which they had always yielded them, they pretend that the *Engliſh* Empire in the Sea is only imaginary, which is a ſort of a Contradiction that I leave them to ſolve as well as they can; but I believe that Task will not appear very eaſy to ſuch as conſider, that *England* being then lately modell'd into a Republick, and being conſequently the youngeſt State at that Time in Chriſtendom, the Marks of Reſpect which the *Dutch* themſelves

ſelves allowed it to have been their Admiral's Duty to pay the *Engliſh*, were ſuch as certainly were more properly Proofs of a lawful and acknowledg'd Superiority and Supremacy or Dominion; for elſe how ſhould any one imagine that the Admiral of one Republick ſhould ſo far degrade himſelf, as not only to furl his Sail, and prepare to ſtrike his Flag, but likewiſe to hoiſt out his Boat, in order to compliment the Admiral of another Republick of a later Date?

The *Dutch* being thus fairly entred into a War with *England*, in the End of the Year 1652 were very glad to take Advantage of the Miſunderſtandings which then aroſe between this Country and *Denmark*, and ſo concluded a Treaty of Alliance with *Frederick* III. then reigning in that Kingdom, containing in Subſtance, —— 'That the *Engliſh* having not only paſſed the *Sound* with 'armed Merchant Ships, but likewiſe with a Fleet of Eighteen 'Men of War, without giving any previous Advertiſement, and 'having likewiſe ſeized and taken ſeveral of his *Daniſh* Majeſty's 'Ships at Sea, and detained others in *England*, and in divers 'Ways interrupted the free Courſe of Trade, an Edict ſhould 'be publiſhed forthwith after the ſigning of the Treaty, where-'by all *Engliſh* Ships, whether Men of War or others, ſhould be 'forbid, under Pain of Confiſcation of Ships and Goods, to paſs 'and repaſs the *Sound* or the *Baltick* Sea during the Continuation 'of the War with *Holland*.

'That the King of *Denmark*, for the Security of Commerce, 'ſhould keep in and about the *Sound* the Number of Twenty Ships 'of War well equipt, according to a Liſt already given, from the 'Firſt of *April* till the Firſt of *November* Yearly; and if any of 'them be loſt, he ſhall ſupply their place with others of the like 'Burthen.

'That the States ſhould pay the King 192000 Rix Dollars 'Yearly, for his Charges during the War, *&c.*

'That they ſhould mutually aid and aſſiſt one another againſt 'all Enemies whatſoever by Sea and Land.

'That the ſaid Twenty *Daniſh* Men of War ſhould, at the Re-'queſt of the Miniſters of the States, ſail to attack the *Engliſh* in '*Cattegat* and *Schagerack*, but no farther into the Northern Sea, 'except in ſome extraordinary Caſes.

'That the *Daniſh* and *Dutch* Ships meeting in the North, or 'elſewhere, ſhould jointly attack the *Engliſh*, and do them what 'Harm they could.

'That they ſhould mutually protect one anothers Subjects, 'Ships, and Effects, in both Countries.

'That

'That in Caſe of a Conjunction of both Fleets, the *Daniſh* Admiral ſhould have the firſt Voice, and then the *Dutch* Admiral, and ſo a *Daniſh* and *Dutch* Officer of equal Poſt alternatively ſhould give their Voices, the *Dane* always firſt.

'That if their united Fleets ſhould take any Prizes, the ſame ſhould be diſpoſed of in the Country which had moſt Ships at the taking of the Prize, but that not without the Privity of the Reſident of the other Country, and to his Satisfaction.

'That the Ships of War of either ſide ſhould aſſiſt the other with ſuch Neceſſaries as they might have occaſion for, at a reaſonable Rate; and that they might refit and provide themſelves in each others Ports and Harbours, with the Permiſſion of the Governors or Magiſtrates thereof; and that Privateers, *&c.* might carry their Prizes into one anothers Ports, and ſhould there receive Protection.

'That ſuch other Princes, States and Potentates, as thought fit, might enter into the League.

'That all former Treaties ſhould ſubſiſt.

'That this Treaty ſhould ſubſiſt till the Liberty of Commerce and Navigation was reſtored, and the Diſturbers thereof brought to reaſonable Terms.

'That neither of the Allies ſhould make Peace nor Truce without the other.

'That if the Twenty *Daniſh* Men of War were not all in good Order and Condition, a proportionable Deduction ſhould be made out of the Subſidy promiſed, *&c.*

The Effect of this good Underſtanding between the *Danes* and the *Dutch* did viſibly appear by another Treaty concluded between thoſe Two Powers at *Copenhagen* the 26th of *September* of the following Year 1653, by which that of 1644, touching the Impoſts in the *Sound*, is annull'd, all former Treaties in favour of the united Provinces renewed, and their Men of War allowed to lie in the Roads of *Lubeck*, and before *Elſenore*; and are likewiſe (obtaining his Majeſty's Permiſſion) permitted to be clean'd and refitted, even at *Copenhagen*, with ſeveral other Benefits and Privileges of that nature.

But notwithſtanding this ſtrait Union with the King and Crown of *Denmark*, the *Dutch* beginning very ſoon to be weary of the War with this Country, were glad to relinquiſh all other Advantages to conclude a Treaty of Peace, of which here follows an Abſtract.

An

ARTICLE V.

An Abſtract of a Treaty of Peace and Union between Oliver Cromwell, *as Protector of* England, *and the united Provinces of the Low Countries.*

IN the firſt place it is agreed, granted, and concluded, that from this Day forth there ſhall be a true, firm, and inviolable Peace, ſincere Friendſhip, and a nearer and ſtraiter Affinity, Confederation and Union between the Republick of *England* and the States General of the united Provinces of the Low Countries, and the Lands, Regions, and Cities ſituate under their Juriſdiction, without Diſtinction, and between their People and Inhabitants, of any Degree whatſoever.

II. That henceforth all Enmity and Hoſtilities ſhall ceaſe.

III. That all Offences, Injuries, Damages and Charges, cauſed and ſuffered after the 18th of *May* O. S. 1652. ſhall be entirely forgot, and quite buried in Oblivion, and no Suits ſhall be moved nor Actions be intended for the ſame, excepting ſuch Depredations as ſhall henceforth be committed in the *Britiſh* Seas, after the Space of Twelve Days, and between the *Britiſh* Seas and St. *Vincent*'s Cape, Six Weeks, and thence in the *Mediterranean* Sea, and to the *Equator*, after the Space of Ten Weeks, and beyond the *Equator* after Eight Months from the Publication of this Treaty, or immediately after due Notice of the Peace; and Reſtitution ſhall be made of all Things taken and Injuries done after that Time.

IV. That all Priſoners of War, of whatſoever Degree or Condition, and in whatſoever Place they be, ſhall be ſet at Liberty without Ranſom.

V. That ſuch as attempt to diſturb the Peace of either State ſhall be reputed Enemies.

The Seven next Articles are not much to our Purpoſe.

XII. It is agreed that the Subjects of either State ſhall freely Travel thro', and Trade to all the Dominions of the other in *Europe*, without Prejudice of the Laws and Cuſtoms of particular Places, *&c.*

XIII. It is likewiſe agreed, that as well the Ships of War as the other Ships of the united Provinces meeting with the Ships of War of this State in the *Britiſh* Seas, ſhall ſtrike their Flag and lower their Topſail, in the ſame manner as that has been performed in any former Time under any Government whatſoever.

XIV. That for the greater Security and Encouragement of Trade, all Pirates be duly puniſhed in the Dominions of either State, and the Effects ſeized in their Cuſtody, reſtor'd to the right Owners, if any can be found.

The Five next Articles are foreign to our preſent Purpoſe.

XIX. That the Merchants, Mariners, Sailors, and Pilots, *&c.* of neither State, nor their Ships, Goods nor Effects, ſhall not be detained nor arreſted, nor forced into the Service of the other, without an abſolute Neceſſity, in which Caſe too Satisfaction ſhall be given for the ſame.

XX. That the Ships of War of either State ſhall take into their Protection, and under their Convoy, all Ships belonging to the other State, as long as they ſteer the ſame Courſe with them.

XXI. That if the Ships belonging to the Subjects of one of the States be taken in the Ports of the other by thoſe of a third Nation, the State under whoſe Juriſdiction ſuch Ships are taken ſhall do their Endeavours to recover the ſame.

XXII. That if any Injury ſhall be done on either ſide, no Letters of Repriſal ſhall be granted till Three Months after Juſtice has been demanded in a friendly manner, and refuſed.

XXIII. That ſuch as obtain Letters of Repriſal of either State, ſhall give in Security before the Judge, which delivers them the ſame, for their Behaviour.

XXIV. It is further agreed that the Veſſels of both Nations, whether Ships of War or others, ſhall be free to enter into each others Ports, and there buy Proviſions or Neceſſaries, or refit if need be, provided always that not above Eight Ships of War enter into any Port of either Allie, except they be forced in by Tempeſt or Enemies, in which Caſe they ſhall be bound forthwith to acquaint the Governor or chief Magiſtrate of the Place, and ſhall not remain any longer there than Neceſſity requires.

XXV. It is likewiſe agreed that the *Dutch* ſhall do Juſtice upon all thoſe concerned in the Slaughter of the *Engliſh* at *Amboyna*, if there be any of them remaining.

The

The following Articles of this Treaty, do only contain ſome Stipulations for receiving the King of *Denmark* into it, and for procuring the Reſtitution of ſome *Engliſh* Effects ſeiz'd in that Country, and Reparation of Damage, *&c.* together with ſome other Things no ways Material to our purpoſe, and therefore I ſhall paſs by them.

The next important Marine Treaty that occurs, is one between his Majeſty King *Charles* the Second, after his Reſtoration to his Dominions, and the States General of *Holland*; in which they compoſe all ancient Differences, and amongſt other things very expreſly confirm that former Article, concerning the *Homage* to be paid by all *Dutch* Ships to *Engliſh* Men of War, which Article only we ſhall here inſert.

Art. X. It is likewiſe agreed, that the Ships and Veſſels of the ſaid United Provinces, as well Men of War as others, meeting any of the Ships of War of Great *Britain*, within the Extent of the *Britiſh* Seas, ſhall ſtrike their Flag, and lower their Main Top Sail, in the ſame manner that it has been obſerv'd in any former time whatſoever.

The Hiſtory of the War that fell out between Great *Britain* and *Holland*, after the Concluſion of this Treaty, is yet ſo recent in every Body's Memory, that not thinking it neceſſary to give the Reader any larger Account of it, I ſhall without any further Ceremony, paſs to the Treaty of Peace and Alliance, concluded between the aforeſaid King *Charles* the Second, and the States General, the 21ſt of *July*, O. S. One thouſand ſix hundred and ſixty ſeven.

And as the firſt Eighteen Articles of that Treaty, do not particularly relate to Marine Affairs, the 19th being preciſely the ſame with the 10th Article of the precedent Treaty, but juſt now inſerted; I ſhall begin at the 20th Article, and inſert the reſt of the Treaty in the ſame Order, in which I have found it in the Original.

XX. And for the greater freedom of Commerce and Navigation, it is agreed and concluded, that the ſaid King of Great *Britain*, and the ſaid States General, ſhall not receive into their Havens, Cities and Towns, nor ſuffer that any of the Subjects of either Party, do receive Pyrates or Sea Rovers, or afford them any Entertainment, Aſſiſtance, or Proviſion, but ſhall endeavour that the ſaid Pyrates and Sea Rovers, or their Partners, Sharers, and Abettors, be found out, apprehended, and ſuffer condign Puniſhment, for the Terror of others: And all the

Ships, Goods, and Commodities Pyratically taken by them, and brought into the Ports of either Party, which can be found; nay, altho' they be ſold, ſhall be reſtor'd to the right Owners, or Satisfaction ſhall be given, either to their Owners, or to thoſe who by Letters of Attorney, ſhall challenge the ſame; provided the Right of their Property be made to appear in the Court of Admiralty, by due Proofs according to Law.

XXI. It ſhall not be permitted to the Subjects of the ſaid King of Great *Britain*, and the Inhabitants of the Kingdoms and Countries, under his Obedience, or to the Inhabitants and Subjects of the ſaid United Provinces, to do or offer any Hoſtility or Violence to each other, either by Land or by Sea, upon any Pretence or Colour whatſoever: And conſequently it ſhall not be lawful for the ſaid Subjects or Inhabitants to get Commiſſions or Letters of Reprizal from any Prince or State, with whom either of the Confederates is at Difference, or in open War; and much leſs by vertue of thoſe Letters, to Moleſt or Damnifie the Subjects of either Party. Neither ſhall it be lawful for any foreign Private Men of War, who are not Subjects to one or the other Party, having Commiſſions from any other Prince or State, to Equip their Ships in the Harbours of either of the aforeſaid Parties, or to ſell or ranſom their Prizes, or any other way to Truck, as well the Ships and Goods, as any other Lading whatſoever. And it ſhall not be lawful for them to buy any Victuals, but what ſhall be neceſſary to bring them to the next Port of that Prince, from whom they obtained their ſaid Commiſſions. And if perchance any of the Subjects of the ſaid King of Great *Britain*, or of the ſaid States General, ſhall buy, or get to themſelves by truck, or any other way, ſuch Ship or Goods which have been taken by the Subjects of the one or the other Party; in ſuch caſe the ſaid Subjects ſhall be bound to reſtore the ſaid Ship or Goods to the Proprietors without any Delay, and without any Compenſation or Reimburſement of Money paid or promis'd for the ſame; provided that they make it appear before the Council of the ſaid King of Great *Britain*, or before the States General, that they are the right Owners or Proprietors of them.

XXII. That in caſe the King of Great *Britain*, or the ſaid States General, do make any Treaty of Amity or Alliance with any other Kings, Republicks, Princes or States, they ſhall therein comprehend each other and their Dominions, if they deſire to be therein comprehended; and ſhall give to the other, notice of all ſuch Treaties, or Friendſhip, or Alliance.

XXIII. That

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XXIII. That in caſe it happens during this Friendſhip, Confederacy and Alliance, that any thing ſhall be done or attempted by any of the Subjects or Inhabitants of either Party againſt this Treaty, or any part thereof, by Land, Sea or freſh Waters, nevertheleſs this Amity and Alliance between the ſaid Nations ſhall not thereby be broken or interrupted, but ſhall remain and continue in its full Force; and that only thoſe particular Perſons ſhall be puniſhed, who have committed any thing againſt this Treaty, and none elſe; and that Juſtice ſhall be rendred, and Satisfaction given to all Perſons concern'd, by all ſuch who have committed any thing contrary to this Treaty, by Land or Sea, or other Waters, in any part of *Europe*, or any Places within the *Straits*, or in *America*, or in any Lands, Iſlands, Seas, Creeks, Bays, Rivers, or in any Places on this ſide the *Cape of Good Hope*, within Twelve Months ſpace after Juſtice ſhall be demanded; and in all Places whatſoever on the other ſide of the *Cape* (as hath been aforeſaid) within Eighteen Months next enſuing, after Demand of Juſtice ſhall be made in manner aforeſaid. But in Caſe the Offenders againſt this Treaty do not appear, and ſubmit themſelves to Judgment, and give Satisfaction within the reſpective times above expreſſed, proportionably to the diſtance of the Places, they ſhall be declared Enemies of both Parties, and their Eſtates, Goods and Revenues whatſoever, ſhall be confiſcated for the due and full Satisfaction of the Injuries and Wrongs by them offer'd; and their Perſons alſo, when they come within the Dominions of either Party, ſhall be liable unto ſuch Puniſhments as every one ſhall deſerve for his reſpective Offences.

XXIV. That the Subjects of the ſaid King of Great *Britain*, and thoſe which are under his Juriſdiction, may freely and ſecurely Travel in all the Provinces of the *Low Countries*, and all their Dominions in *Europe*, and through them by Sea or Land, paſs to other Places there or beyond them, and thro' all Quarters of the United Provinces, Cities, Forts or Garriſons whatſoever, which are in any Parts of the United Provinces, or elſewhere in their Dominions in *Europe*, as well they themſelves exerciſing Trade in all thoſe Places, as their Agents, Factors, and Servants, may go armed or unarmed (but if armed, not above forty in Company) as well without their Goods and Merchandizes as with them, whereſoever they pleaſe. The People alſo and Inhabitants of the United Provinces ſhall enjoy the ſame Liberty and Freedom in all the Dominions of the ſaid King in *Europe*; provided that they, and every of them, do in their Trade and Merchandizing, yield Obedience to the Laws and Statutes of either Nation reſpectively.

XXV.

XXV. That in caſe the Merchant Ships of the Subjects of either Nation ſhall by Storm, Pyrates, or any other Neceſſity whatſoever, be driven into any Haven of either Dominion, they may depart ſecurely at their Pleaſure, with their Ships and Goods, without paying any Cuſtoms or other Duties; provided they break no Bulk nor ſell any thing; nor ſhall they be ſubject to any Moleſtation or Search, provided they do not receive on Board any Perſons or Goods, nor do any thing elſe contrary to the Laws, Ordinances or Cuſtoms of the Places, where they (as aforeſaid) ſhall happen to arrive.

XXVI. That the Merchants, Maſters and Seamen of either Party, their Ships, Goods, Wares or Merchandizes, ſhall not be arreſted or ſeized in the Lands, Havens, Roads or Rivers of the other, to ſerve at War, or any other Uſe, by vertue of any general or ſpecial Command, unleſs upon an extraordinary Neceſſity, and that juſt Satisfaction be given for the ſame; but ſo as the ſame ſhall not derogate from the Seizures and Arreſts duly made in the ordinary Courts of Juſtice of either Nation.

XXVII. That the Merchants on both ſides, their Factors and Servants, and alſo the Maſters and other Seamen, as well going as returning by Sea and other Waters; as alſo in the Havens of either Party, or going on Shoar, may carry and uſe for the Defence of themſelves and Goods, all ſorts of Weapons, as well Offenſive as Defenſive; but being come into their Lodgings or Inns, they ſhall there lay by, and leave their Arms, until they be going on Board again.

XXVIII. That the Men of War, or Convoys of either Nation, meeting or overtaking at Sea, any Merchant Ship or Ships, belonging to the Subjects or Inhabitants of the other, holding the ſame Courſe, or going the ſame way, ſhall be bound as long as they keep one Courſe together, to protect and defend them againſt all and every one who would ſet upon them.

XXIX. That if any Ship or Ships of the Subjects or Inhabitants of either Nation, or of a Neuter, be taken by a third Party in the Harbours of either, not being of the Subjects or Inhabitants of either Nation, they, in or out of whoſe Haven or Juriſdiction the ſaid Ships ſhall be taken, ſhall be bound to endeavour with the other Party, that the ſaid Ship or Ships be purſued, brought back, and reſtored to the Owners; but all this ſhall be done at the Charges of the Owners, or whom it concerns.

XXX. That Searchers, and other like Officers on both ſides, ſhall regulate themſelves according to the Laws of either Nation, and ſhall not impoſe or demand more than they are allow'd by their Commiſſions or Inſtructions.

XXXI. That

XXXI. That if any Injury be done or practiſed by either Nation, or the Subjects or Inhabitants of the ſame, againſt the Subjects or Inhabitants of the other, or againſt any of the Articles of this preſent Treaty, or againſt common Right, yet nevertheleſs no Letters of Repriſal, Marque or Counter-marque, ſhall be granted by either ſide, till Juſtice hath been firſt demanded, according to the ordinary Courſe of Law; but in cāſe Juſtice be there denied or delayed, then that the ſaid King of *Great Britain* and the ſaid States General, or Commiſſioners of that Nation whoſe Subjects or Inhabitants have ſuffered the Wrong, ſhall publickly require Juſtice from that other Party, where (as aboveſaid) it was denied or delayed, or from that Power appointed to hear and decide ſuch Difference, that there may be a friendly Compoſure or due Proceſs of Law; but if ſtill there happen more Delays, and neither Juſtice be adminiſtred, nor Satisfaction given within Three Months after ſuch Demand, that then Letters of Repriſal, Marque or Counter-marque, may be granted.

XXXII. It is alſo agreed, if at any time it happen (which God of his Mercy forbid) that the Differences now compoſed between his ſaid Majeſty and the ſaid States General ſhould feſter, and break out again in open War, that then thoſe Ships Merchandize, or any kind of Moveables of either Party, which ſhall be found to be and remain in the Ports, and under the Command of the adverſe Party on either ſide, ſhall not, for all that, be confiſcated, or made obnoxious to any Inconvenience, but the Space of Six Months ſhall entirely be allowed to the Subjects and Inhabitants of either Party, that they may have Leiſure to tranſport from thence the forementioned Things, and any thing elſe that is theirs, whither they ſhall think fit, without any kind of Moleſtation.

XXXIII. That they who have obtained private Commiſſions from either Party, before they receive ſuch Commiſſions, ſhall give good and ſufficient Security before the Judge of the Court where they receive ſuch Commiſſions, by reſponſible Men, who have no Part or Share in ſuch Ships, that they ſhall do no Damage or Injury to the Subjects or Inhabitants of either ſide.

XXXIV. It is alſo agreed and concluded that the Subjects and Inhabitants of either Party ſhall always have free Acceſs to each others Sea Ports, there to remain, and from thence to depart with the ſame Freedom, and not only with their Merchant Ships and Lading, but alſo with their Men of War, whether they belong to the ſaid King or States General, or unto ſuch as have obtained private Commiſſions, whether they arrive thro' Violence or Tempeſt, or other Caſualty of the Seas, or to mend their Ships,

or

or to buy Proviſion, ſo they exceed not the Number of Eight Men of War, when they come there voluntarily, nor ſhall remain or abide longer in the Havens, or Places adjacent, than they ſhall have a juſt Cauſe to repair their ſaid Ships, or to buy Victuals or other Neceſſaries. And if a greater Number of Men of War ſhould upon Occaſion deſire to come into ſuch Ports, they ſhall in no caſe enter thereinto until they have firſt obtained Leave from thoſe to whom the ſaid Havens do appertain, unleſs they be forced ſo to do by Storm, or ſome Force or Neceſſity, whereby they may avoid the Danger of the Sea, in which Caſe alſo they ſhall preſently make known the Cauſe of their coming unto the Governor or chief Magiſtrate of the Place, and ſhall ſtay no longer than the Governor or chief Magiſtrate ſhall permit them, and ſhall not do any Acts of Hoſtility or other Prejudice in the aforeſaid Havens during their Abode there.

XXXV. Furthermore it is agreed and concluded that both Parties ſhall truly and firmly obſerve and execute this preſent Treaty, and all and every the Matters contained therein, and effectually cauſe the ſame to be obſerved and performed by the Subjects and Inhabitants of either Nation.

XXXVI. Alſo for further Caution and Aſſurance that this Treaty and Confederacy ſhall be duly and *bona fide* obſerved on the Part of the ſaid States General of the united Provinces, and their People, it is concluded and agreed, and as the ſaid States General by theſe Preſents do agree and firmly bind themſelves, that all and every one of whom they or the States of the Provinces ſhall at any time chuſe, appoint, or make Captain General, Governor, or chief Preſident, or Stateholder, General of Armies or Military Forces by Land, or Admiral or General of the Fleets, Ships, or Forces at Sea, ſhall be bound and obliged by Oath to confirm this Treaty, and all the Articles thereof, and promiſe ſacredly upon Oath that they ſhall, as far as it is poſſible, religiouſly obſerve and execute the ſame, and as much as concerns them cauſe the ſame to be obſerved and executed by others.

XXXVII. Under this preſent Treaty of Peace thoſe ſhall be comprehended, who ſhall be named by either Party with common Conſent before the Exchange of Ratifications, or within Six Months after. But in the mean time, as the covenanting Parties do thankfully acknowledge the Friendly Offices and unwearied Endeavours, whereby the moſt Serene King of *Sweden* interpoſing his Mediation, hath, thro' the Aſſiſtance of God, promoted and carried on this beneficial Work of Pacification unto the deſired Con-

Concluſion; ſo to teſtify their like Affection, it is decreed and covenanted by the common Conſent of all the Parties, that his above-mentioned Majeſty of *Sweden*, with all his Kingdoms, Dominions, Provinces, and Rights, be included in this Treaty, and comprehended in the preſent Pacification, after the beſt and moſt effectual manner that may be.

XXXVIII. It is alſo covenanted, concluded, and agreed, that the preſent Treaty, and all and every thing and things therein contained and concluded, ſhall be confirmed and ratified by the ſaid King of *Great Britain* and the ſaid States General of the united Provinces, by Letters Patents on both ſides, ſealed with the Great Seal in due and authentick Form, within Four Weeks next enſuing, or ſooner, if it can be done; and that within the ſaid Time the Ratifications on both ſides ſhall be exchanged at *Breda*; and that preſently after the Delivery and Exchange of the ſame, this Treaty and Alliance ſhall be publiſhed in ſuch Form and Place as is uſual.

Done at Breda *the* $\frac{31}{21}$ *Day of* July 1667.

The ſame Day was likewiſe concluded another Treaty concerning the Marine Affairs, but as that was only the Forerunner of another of the 17 of *February* 1667, I ſhall only inſert the latter, which is more methodical and poſitive, and conſequently fitter for my Purpoſe.

ARTICLE VI.

Articles touching Navigation and Commerce between the moſt Serene and Mighty Prince Charles II. *by the Grace of God King of* England, Scotland, France *and* Ireland, *Defender of the Faith*, &c. *and the High and Mighty Lords the States General of the united Netherlands, concluded at the* Hague *the* $\frac{7}{17}$ Febr. $166\frac{7}{8}$.

WHereas by the Bleſſing of Almighty God, for the mutual Safety of the Two Parties, as well as the common Good of Chriſtendom, a perpetual defenſive Treaty was concluded, and ſigned on the 23*d Day of* January *laſt paſt, between the moſt ſerene and moſt potent Prince* Charles II. *and the high and mighty Lords the States General*

of the united Netherlands, *with Stipulation of conſiderable Succours, to be mutually given by the Parties, as well by Sea as Land: And whereas the ſaid King and States did on the ſame Day, and by another Inſtrument, readily enter into a ſolemn Treaty and Agreement for compoſing the Affairs of their Neighbours, and reſtoring Peace to Chriſtendom, ſo as nothing ſeems now remaining that can at any time hereafter interrupt a Friendſhip and Alliance renewed with ſo equal Deſires, unleſs ſuch Controverſies as may otherwiſe hereafter happen to ariſe about determining the different Sorts and Natures of Merchandize, which being left dubious and uncertain, would give Occaſion to the further Growth of ſuch Differences: And therefore that it may appear with what Sincerity and good Faith the ſaid King and the ſaid States deſire to preſerve and entertain, not only for the preſent, but to all Poſterity, the Amity they lately contracted between them, they have at laſt, for the taking away all Grounds, not only of Differences and Miſunderſtandings, but even of Queſtions or Diſputes, and ſo utterly to cut off the Hope and Expectation of thoſe, whoever they are, that may think it their Intereſt by new Controverſies to endeavour the Diſturbance or Interruption of the ſaid Peace, mutually agreed on theſe following Articles, which are to be on both ſides, and for ever obſerved as the Meaſure and Rule of ſuch Maritime Affairs, and mutual Settlement of Trade, or at leaſt ſo long, till by the joint Conſent of both Parties Commiſſioners be appointed, and do meet in order to the framing a more full and ample Treaty concerning this Matter, and the Laws and Rules of Commerce and Navigation, as by farther Experience ſhall be found moſt advantageous to the common Good of both Parties.*

I. ALL the Subjects and Inhabitants of *Great Britain* may with all Safety and Freedom Sail and Traffick in all the Kingdoms, Countries, and Eſtates, which are or ſhall be in Peace, Amity, or Neutrality with *Great Britain*, without being troubled or diſquieted in that Liberty by the Ships of War, Gallies, Frigats, Barks, or other Veſſels belonging to the States General, or any of their Subjects, upon Occaſion and Account of the Hoſtilities which may hereafter happen between the ſaid States General and the aboveſaid Kingdoms, Countries, and Eſtates, or any of them, which are or ſhall be in Peace, Amity, or Neutrality with *Great Britain*.

II. This Freedom of Navigation and Traffick ſhall extend to all ſorts of Merchandize, except thoſe of Contraband.

III. This Term of Contraband Goods is underſtood to comprehend only all ſorts of Fire-Arms, and their Appurtenances, as Cannon, Muſquets, Mortar-pieces, Petards, Bombs, Granadoes, Fire-crancels, pitch'd Hoops, Carriages, Reſts, Bandeliers, Powder, Match,

Match, Salt-peter, Bullets, Pikes, Swords, *Morions*, Head-Pieces, Coats of Mayl, Halberts, Javelins, Horſes, Great Saddles, Holſters, Belts and other Utenſils of War, called in French, *Aſſortiſſemens ſervant a l' de la Guerre.*

IV. In this quality of Contraband Goods, theſe following ſhall not be comprehended; Corn, Wheat, or other Grain, and Pulſe; Oils, Wines, Salt, or generally any thing that belongs to the Nouriſhment and Suſtenance of Life, but ſhall remain free as other Merchandize and Commodities not comprehended in the precedent Article; and the Tranſportation of them ſhall be permitted even unto Places in Enmity with the ſaid States General, except ſuch Cities and Places as are Beſieged, Blocked up, or Inveſted.

V. It hath been agreed, for the due Execution of what is aboveſaid, that the Ships and Barques of the *Engliſh*, Laden with Merchandize, being entered into any Port of the ſaid States General, and purpoſing to paſs from thence unto the Ports of their Enemies, ſhall be only obliged to ſhew unto the Officers of the Port of the ſaid States, out of which they would go, their Paſſports, containing the Specification of the Lading of their Ships, atteſted and marked with the ordinary Seal of the Officers of the Admiralty of thoſe Places from whence they firſt came, with the Place whither they are bound, all in uſual and accuſtomed Form: After which ſhewing of their Paſsports in the Form aforeſaid, they may not be diſquieted nor ſearched, detained nor retarded in their Voyages, upon any Pretence whatſoever.

VI. The ſame Courſe ſhall be uſed in regard of the *Engliſh* Ships and Veſſels, which ſhall come into any Roads of the Countries under the Obedience of the ſaid States, not intending to enter into the Ports, or being entred thereinto, not to unlade and break Bulk; which Ships may not be obliged to give account of their Lading, but in Caſe of Suſpicion that they may carry unto the Enemies of the ſaid States any Contraband Goods, as was aforeſaid.

VII. And in caſe of ſuch apparent Suſpicion, the ſaid Subjects of his Majeſty ſhall be obliged to ſhew in the Ports their Paſsports in the Form ſpecified.

VIII. But if they were come within the Roads, or were met in the open Sea by any of the ſaid States Ships or private Men of War their Subjects; for avoiding of all Diſorder, the ſaid Ships of the United Provinces or of their Subjects, ſhall not come near within Cannon-ſhot of the *Engliſh*, but ſhall ſend out their Long-Boat, and cauſe only two or three Men to go on Board the *Engliſh* Ships or Veſſels, unto whom the Paſsports and

Certificates of the Propriety of the Ships be ſhewn by the Maſter or Captain of the *Engliſh* Ship, in the manner above ſpecified, according to the Form of the ſaid Certificates which ſhall be inſerted at the end of this Treaty; by which Paſsport, and Certificate, proof may be made not only of the Lading, but alſo of the Place of the Abode and Reſidence of the Maſter or Captain, and Name of the Ship it ſelf; to the end that by theſe two ways it may be known whether they carry Contraband Goods; and that the quality as well of the ſaid Ship, as of its Maſter or Captain may ſufficiently appear: Unto which Paſsports and Certificates, entire Faith and Credit ſhall be given. And to the end that their Validity may be the better known, and that they may not be in any wiſe falſifyed and counterfeit, certain Marks and Counter-ſigns of his Majeſty and the ſaid States General, ſhall be given unto them.

IX. And in caſe any Merchandize and Commodities of thoſe Kinds which are before declared to be Contraband and forbidden, ſhall by the means aforeſaid be found in the *Engliſh* Ships and Veſſels, bound for the Ports of the ſaid States Enemies; they ſhall be unladen, judicially proceeded againſt, and declared confiſcate before the Judges of the Admiralty of the United Provinces, or other competent Officers: But ſo that the Ship and Veſſel, or other free and allowed Goods, Merchandize, and Commodities found in the ſame Ship, may not for that cauſe be in any manner ſeized or confiſcated.

X. It is furthermore agreed and covenanted, that whatſoever ſhall be found Laden by his Majeſty's Subjects upon any Ship of the Enemies of the ſaid States, although the ſame were not Contraband Goods, ſhall yet be confiſcate, with all that ſhall be found in the ſaid Ship, without Exception or Reſervation: But on the other ſide alſo, all that ſhall be found in the Ships belonging to the King of *Great Britain*'s Subjects, ſhall be free and diſcharged, although the Lading or Part thereof belong to the ſaid States Enemies, except Contraband Goods, in regard whereof, ſuch Rule ſhall be obſerved as hath been ordered in the precedent Articles.

XI. All the Subjects and Inhabitants of the ſaid United Provinces, ſhall reciprocally enjoy the ſame Rights, Liberties, and Exemptions in their Trade and Commerce upon the Coaſts, and in the Ports, Roads, Seas, and Eſtates of his ſaid Majeſty, (as was now ſaid) which his ſaid Majeſty's Subjects ſhall enjoy in thoſe of the ſaid States, and in open Sea; it being to be underſtood, that the equality ſhall be mutual every way on both ſides, even in caſe the ſaid States ſhould hereafter be in Peace, Amity and

and Neutrality with any Kings, Princes, and States, who ſhould become Enemies to his ſaid Majeſty; ſo that either of the Parties are mutually to uſe the ſame Conditions and Reſtrictions, expreſſed in the Articles of this preſent Treaty, with regard to Trade and Commerce.

XII. And the more to aſſure the Subjects of the ſaid States, that no violence ſhall be offered them by the Ships of War belonging to his Majeſty of *Great Britain*, or his Subjects, all the Captains of the King's Ships, and all his Majeſty's Subjects, that ſend out private Men of War, ſhall be charged and enjoined not to moleſt or endamage them in any thing whatſoever, upon pain of being puniſhed and made anſwerable in their Perſons and Goods for all Coſts and Damages, until due Reſtitution and Reparation be made.

XIII. And for this cauſe the Captains and Capers ſhall from henceforth every one of them be obliged before they go out, to give good and ſufficient Security before competent Judges, in the Sum of Fifteen hundred Pounds Sterling, or Fifteen thouſand Livres *Tournois*, that they will give full Satisfaction for any Injuries or Wrongs they may commit in their Courſes at Sea, and for their Captains and Officers that ſhall violate this preſent Treaty, and the Orders and Proclamations of his Majeſty which ſhall be publiſhed by Virtue, and in Conformity to the Regulation therein made; upon pain of forfeiting their ſaid Commiſſions and Licences, which ſhall in like manner be practis'd by the Subjects of the ſaid States General.

XIV. If it ſhould happen that any of the ſaid *French* Captains ſhould make Prize of a Veſſel laden with Contraband Goods, as hath been ſaid, the ſaid Captains may not open nor break up the Cheſts, Mails, Packs, Bags, Casks, or ſell, or exchange, or otherwiſe alienate them, until they have landed them in the preſence of the Judges or Officers of the Admiralty, and after an Inventory by them made of the ſaid Goods found in the ſaid Veſſels; unleſs the Contraband Goods making but a part of the Lading, the Maſter of the Ship ſhould be content to deliver the ſaid Contraband Goods unto the ſaid Captain, and to purſue his Voyage: In which Caſe the ſaid Maſter ſhall by no Means be hindred from continuing his Courſe, and the Deſign of his Voyage.

XV. His Majeſty being deſirous that the Subjects of the ſaid States may be uſed in all Countries under his Obedience as favourably as his own Subjects, will give all neceſſary Orders, that Judgments and Decrees upon Prizes which ſhall happen to be taken at Sea, may be given with all Juſtice and Equity,

by

by Judges not ſuſpected nor concerned in the Matter under debate; and His Majeſty will give preciſe and effectual Orders, that all Decrees, Judgments, and Orders of Juſtice already given and to be given, may be readily and duly executed according to the Tenor of them.

XVI. And when the Ambaſſadors of the ſaid States General, or any other of their Publick Miniſters reſiding in his Majeſty's Court, ſhall make Complaint of the Judgments which ſhall be given, his Majeſty will cauſe a Review to be made of the ſaid Judgments in his Council, to examine whether the Order and Precautions contained in the preſent Treaty have been followed and obſerved, and to provide for the ſame according to Right and Equity; which ſhall be done within the ſpace of Three Months at the fartheſt: Nevertheleſs neither before the firſt Judgment nor after it, during the time of the Review, the Goods and Effects which are reclaimed, may not be ſold or unladen, unleſs it be with the conſent of the Parties intereſted, to avoid the ſpoiling of the ſaid Commodities, if they be periſhable.

XVII. When Proceſs ſhall be moved in the firſt or ſecond Inſtance, between thoſe that have taken the Prizes at Sea, and the Perſons intereſted therein, and the ſaid intereſted Perſons ſhall come to obtain a favourable Judgment or Decree; the ſaid Judgment or Decree, ſhall have its Execution upon Security given, notwithſtanding the Appeal of him that took the Prize; but the ſame ſhall not hold on the contrary, where the Sentence goes againſt the Claimers. And that which is ſaid in this Preſent, and in the precedent Articles, for the cauſing of good and ſpeedy Juſtice to be done unto the Subjects of the United Provinces in the Matter of Prizes taken at Sea by His Majeſty's Subjects, ſhall be underſtood and practiſed by the States General, in regard of Prizes taken by their Subjects from thoſe of his Majeſty.

XVIII. But ſince the Conveniences, and Inconveniences of Things and Agreements, cannot be diſcovered but in procedure of Time, and by Obſervations drawn from mutual Experience, it is therefore agreed between the ſaid King of *Great Britain*, and the ſaid Lords the States of the *United Netherlands*, that at any time hereafter, when both Parties ſhall ſo think it fitting, certain Commiſſioners by each Party reſpectively choſen, ſhall meet by the common Conſent of both; who ſhall make it their Care and Buſineſs to ſupply whatever ſhall be found wanting in the aforementioned Articles, to change or limit whatever ſhall not be convenient and commodious for both, and fully compleat

compleat a further Treaty concerning theſe Things, and all other the Laws of Navigation.

XIX. All theſe Agreements, and all and every thing therein contained, ſhall be confirmed and ratified by the ſaid King of *Great Britain* and the States General of the united Provinces, by Letters Patents of both Parties, ſealed with their Great Seal in due and authentick Form, within Four Weeks next enſuing, or ſooner if it may be, and mutual Inſtruments ſhall be exchanged by each Party within the Time aforeſaid.

Here follow certain Forms whereof mention is made in the Eighth Article.

A Form of the Certificate that ought to be given by thoſe that have the ordinary Power of the Admiralty of England, *to the Ships and Veſſels that go out thence, according to the Eighth Article of the preſent Treaty.*

High Admiral of *England*,

To all who ſhall ſee theſe Preſents, Greeting.

Theſe are to certify that we have granted Leave and Permiſſion to Maſter and Captain of the Ship called of the City of of the Burden of Tuns, or thereabouts, being at preſent in the Port and Haven of to go to laden with after Search ſhall have been made of the Ship, and he before his Departure ſhall have made Oath before the Officers that exerciſe the Juriſdiction of Maritime Cauſes, that the ſaid Veſſel doth belong to one or more of his Majeſty's Subjects, an Act whereof ſhall be put at the bottom of theſe Preſents, as alſo to keep, and cauſe to be kept by thoſe aboard him, the Orders and Rules of the Marine, and ſhall put into the Regiſtry a Liſt ſigned and certified, containing the Names and Sirnames, the Nativity and Habitation of the Men that are aboard him, and of all that ſhall imbark themſelves, whom he may not take on board without the Knowledge and Permiſſion of the Marine Officers; and in every Port or Haven where he ſhall enter with his Ship, ſhall ſhew the Officers and Marine Judges this his preſent Licenſe; and having finiſhed his Voyage, ſhall make faithful Relation of what hath been done, and hath paſſed during all the Time of his ſaid Voyage, and ſhall carry the Flags, Arms, and Colours of his Majeſty throughout his whole Voyage. In Witneſs

neſs whereof We have ſigned theſe Preſents, and cauſed the Seal of Our Arms to be put thereunto, and the ſame to be Counter-ſigned by Our Secretary of Marine the Day of One Thouſand Six Hundred

Signed

And underneath,
By and ſealed with the
Seal of the Arms of the ſaid High Admiral.

A Form of the Act containing the Oath to be taken by the Maſter or Captain of the Ship.

WE of the Admiralty of do certify, That Maſter of the Ship named in the Paſport above hath taken the Oath therein mentioned. Given at the Day of One Thouſand Six Hundred, *&c.*

In Teſtimony whereof we have
hereunto ſet our Hands.

The Form of the Certificates that ought to be given by the Burgomaſters of the Cities and Sea Ports of the united Provinces to the Ships and Veſſels that go from thence, according to the Eighth ARTICLE aboveſaid.

TO the moſt Serene, moſt Illuſtrious, moſt Mighty, moſt Noble, Honourable, and Prudent Lords, Emperors, Kings, Commonwealths, Princes, Dukes, Comtes, Barons, Lords, Burgomaſters, Sheriffs, Counſellors, Judges, Officers, Juſtices and Regents of all Cities and Places, as well Eccleſiaſtical as Secular, who ſhall ſee or read theſe Preſents. We Burgomaſters and Governors of the City of do certify, That Ship-maſter appearing before Us, hath declared by ſolemn Oath that the Ship called containing about Laſts, of which he is at preſent the Maſter, belongeth to Inhabitants of the united Provinces. So help him God. And as we would willingly ſee the ſaid Ship-maſter aſſiſted in his juſt Affairs, We do requeſt you, and every of you, where the aboveſaid Maſter ſhall arrive with his Ship and Goods, that you will pleaſe to receive him courteouſly and uſe him kindly, admitting him upon paying the uſual Dues, Tolls, and other Cuſtoms, to enter into, remain

main in, and paſs from your Ports, Rivers, and Territories, and there to Trade, Deal and Negotiate in any Part or Place, in ſuch ſort and manner as he ſhall deſire. Which we ſhall moſt readily acknowledge in the like Occaſion. In Witneſs whereof We have cauſed the Seal of our City to be thereunto put.

In Witneſs and Confirmation of all and every Part whereof, We the Commiſſioners of his ſaid Majeſty the King of *Great Britain* and of the ſaid Lords the States General, having ſufficient Power given us thereunto, have ſigned theſe Tables, and ſealed them with our Seals. At the *Hague* in *Holland* the 17th of *February* in the Year 1668.

De Gellicum,	*G. Hoolck,*
B. d' Aſperen,	*V. Unckell,*
John de Witt,	*Jan Van Iſſelmuden,*
Van Crommon,	*L. T. Van Starckenborck.*

This Marine Treaty being ſo concluded between his Majeſty and the States, for their Dominions in *Europe*, another was ſome Time after ſet a-foot and agreed to for regulating their Naval Affairs all over the World, which very well deſerves a Place in this Collection, and which the Reader may take in the following Terms.

ARTICLE VII.

A Treaty Marine between the moſt ſerene and mighty Prince Charles II. *by the Grace of God King of* England, Scotland, France *and* Ireland, *Defender of the Faith,* &c. *and the high and mighty Lords the States General of the united Netherlands, to be obſerved throughout all and every the Countries and Parts of the World by Sea and Land, concluded at* London *the Firſt Day of* December 1647. *S. V.*

Art. I. THAT it ſhall and may be lawful for all and every the Subjects of the moſt Serene and Mighty Prince the King of *Great Britain* aforeſaid with all Freedom and Safety to

Sail, Trade, and exerciſe any manner of Traffick in all thoſe Kingdoms, Countries, and Eſtates, which are, or at any time hereafter ſhall be in Peace, Amity, or Neutrality with his ſaid Majeſty, ſo that they ſhall not be any ways hindred or moleſted in their Navigation or Trade by the Military Forces, nor by the Ships of War, or any other kind of Veſſels whatſoever, belonging either to the High and Mighty States General of the united Netherlands, or to their Subjects, upon Occaſion or Pretence of any Hoſtility or Difference which now is, or ſhall hereafter happen between the ſaid Lords the States General and any Princes or People whatſoever in Peace, Amity, or Neutrality with his ſaid Majeſty; and likewiſe that it ſhall and may be lawful for all and every the Subjects of the ſaid High and Mighty Lords the States General of the united Netherlands with all Freedom and Safety to Sail, Trade, and exerciſe any manner of Traffick in all thoſe Kingdoms, Countries, and Eſtates, which are, or at any time hereafter ſhall be in Peace, Amity, or Neutrality with the aforeſaid Lords the States, ſo that they ſhall not be any ways hindred or moleſted in their Navigation or Trade by the Military Forces, or by the Ships of War, or any other kind of Veſſels whatſoever, belonging either to the moſt Serene and Mighty King above mentioned, or to his Subjects, upon Occaſion or Pretence of any Hoſtility or Difference which now is, or ſhall hereafter happen between his ſaid Majeſty and any Princes or People whatſoever in Peace, Amity, or Neutrality with the ſaid Lords the States.

II. Nor ſhall this Freedom of Navigation and Commerce be infringed by Occaſion or Cauſe of any War, in any Kind of Merchandizes, but ſhall extend to all Commodities which ſhall be carried in Time of Peace, thoſe only excepted which follow in the next Article, and are comprehended under the Name of Contraband.

III. Under this Name of Contraband, or prohibited Merchandizes, ſhall be comprehended only Arms, Pieces of Ordnance, with all Impliments belonging to them, Fire-balls, Powder, Match, Bullets, Pikes, Swords, Lances, Spears, Halberds, Guns, Mortar-pieces, Petards, Granadoes, Muſquets-Reſts, Bandeliers, Salt-petre, Muſquets, Muſquet-ſhot, Helmets, Croſlets, Breaſt-plates, Coats of Mail, and the like Kind of Armature, Soldiers, Horſes, and all Things neceſſary for the Furniture of Horſes, Holſters, Belts, and all other Warlike Inſtruments whatſoever.

IV. Theſe Merchandizes following ſhall not be reckoned among prohibited Goods, *viz.* all Kind of Cloath, and all other Manufactures woven of any Kind of Wooll, Flax, Silk, Cotton, or any

any other Materials; all ſorts of Cloathing and Veſtments, together with Materials whereof they uſe to be made; Gold and Silver, as well coin'd as not coin'd; Tin, Iron, Lead, Copper, and Coals; as alſo Wheat, Barley, and all other kind Corn or Pulſe; Tobacco, and all kind of Spices, ſalted and ſmoaked Fleſh, ſalted and dried Fiſh, Butter and Cheeſe, Beer, Oils, Wines, Sugars, and all ſorts of Salt; and in general, all Proviſion which ſerves for the Nouriſhment and Suſtenance of Life, likewiſe all kind of Cotton, Hemp, Flax, and Pitch; and Ropes, Sails and Anchors; alſo Maſts and Planks Boards and Beams of what ſort of Wood ſoever, and all other Materials requiſite for the Building or Repairing Ships, but they ſhall be wholly reputed amongſt free Goods, even as all other Wares and Commodities which are not comprehended in the next precedent Article; ſo that the ſame may be freely tranſported and carried by the Subjects of his ſaid Majeſty, even unto Places in Enmity with the ſaid States, as alſo on the other ſide, by the Subjects of the ſaid States, to Places under the Obedience of the Enemies of his ſaid Majeſty; except only Towns or Places beſieged, environed or inveſted, in French, *Blocquees, ou Inveſties.*

V. And that all manner of Differences and Contentions on both ſides by Sea and Land, may from henceforth ceaſe and be utterly extinguiſhed; it is agreed, that all kind of Ships and Veſſels whatſoever, belonging to the Subjects of his ſaid Majeſty, entring or being entred into any Road or Port under the Obedience of the Lords the States, and purpoſing to paſs from thence, ſhall be only obliged to ſhew unto the Officers acting in the Ports of the ſaid States, or to the Captains of the States Ships, or of Private Men of War, (if any happen there to be) their Paſsport, commonly called a Sea Brief (the Form whereof is added at the end of theſe Articles;) nor ſhall any Money or any thing elſe be exacted from them under that Pretence: But if any Ship belonging to the Subjects of his Majeſty of *Great Britain*, ſhall in the open Sea, or elſewhere out of the Dominions of the ſaid States, meet the Ships of War of the ſaid Lords the States, or Private Men of War of their Subjects, the ſaid Ships of the Lords the States or of their Subjects, ſhall keep at a convenient diſtance, and only ſend out their Boat, and it ſhall be lawful for them only with two or three Men, to go on board the Ships and Veſſels of the Subjects of his Majeſty, that the Paſsport (or Sea Brief) of the Propriety thereof according to the Form hereafter ſpecified, may be ſhewn to them by the Captain or Maſter of ſuch Ship or Veſſels belonging to the Subjects of his Majeſty; and the Ship which ſhall ſhew the ſame, ſhall free-

ly paſs, and it ſhall not be lawful to moleſt, ſearch, detain or divert the ſame from her intended Voyage: And all the Subjects of the Lords the States ſhall enjoy in all things, the ſame Liberty and Immunity, they in like manner, ſhewing their Paſsports (or Sea Brief) made according to the Form preſcribed at the latter end of this Treaty.

VI. But if any Ship or Veſſel belonging to the *Engliſh*, or other Subjects of his Majeſty, ſhall be met making into any Port in Enmity with the Lords the States; Or on the other ſide, if any Ship belonging to the united Provinces of the *Netherlands*, or other Subjects of the Lords the States, ſhall be met in her Way making into any Port under the Obedience of the Enemies of his ſaid Majeſty, ſuch Ships ſhall ſhew, not only a Paſsport (or Sea Brief) according to the Form here under preſcribed, wherewith ſhe is to be furniſhed, but alſo her Cocquets expreſſing the Contents of the Goods on Board, given in the uſual Form, by the Officers of the Cuſtoms in the Port from whence ſhe came; whereby it may be known whether ſhe is laden with any Merchandizes prohibited by the third Article of this Treaty.

VII. But if by the ſhewing the above-ſaid Cocquets expreſſing the Contents of the Goods on Board, given in the uſual Form by the Officers of the Cuſtoms in the Port from whence ſhe came, (concerning the ſhewing whereof it is above agreed) either Party ſhall diſcover any kind of Merchandizes which in the third Article of this Treaty are declared to be Contraband or Prohibited, Conſigned to any Port under the Obedience of their Enemies, it ſhall not be lawful to open the Hatches of ſuch Ship in which the ſame ſhall happen to be found, whether ſhe belongs to the Subjects of his Majeſty, or of the Lords the States: Nor to unlock, or break upon Cheſts, Mails, Packs, or Casks in the ſame, nor to convey away any the leaſt part of the Merchandizes, before the whole be firſt Landed in the preſence of the Officers of the Admiralty, and inventoried; neither ſhall it be any ways lawful to ſell, exchange, or otherwiſe to alienate the ſame, until ſuch prohibited Goods, are rightly and lawfully proceded againſt, and that the Judges of the Admiralty have by their reſpective Sentences confiſcated the ſame: Provided always, that as well the Ship it ſelf as the reſt of the Commodities found in the ſame, which by this Treaty are to be reputed free, ſhall not upon pretence of their being infected by ſuch prohibited Goods, be detained, much leſs confiſcated, for lawful Prize: But if not the whole, but a part only of the Lading conſiſts of Contraband or Prohibited Commodities, and that the Maſter of the Ship ſhall be willing and ready to deliver

deliver them to the Captor who ſeized the ſame, in that caſe the Captor ſhall not compel the Ship to go out of her Courſe to any Port he thinks fit, but ſhall forthwith diſmiſs her, and upon no Account hinder her from freely proſecuting her deſigned Voyage.

VIII. It is further agreed, that whatſoever ſhall be found laden by his Majeſty's Subjects, upon any Ship whatſoever belonging to the Enemies of the Lords the States, altho' the ſame be not of the Quality of contraband Goods, may be confiſcated; but on the contrary, all that which ſhall be found in the Ships belonging to the Subjects of his Majeſty, ſhall be accounted clear and free, altho' the whole Lading, or any part thereof, by juſt Title or Propriety, ſhall belong to the Enemies of the Lords the States, except always contraband Goods, which being intercepted, all things ſhall be done according to the Meaning and Direction of the precedent Articles; and by the ſame reaſon, whatſoever ſhall be laden by the Subjects of the Lords the States, in any Ship whatſoever belonging to the Enemies of his Majeſty, altho' the ſame be not of the Quality of contraband Goods, may be confiſcated; but on the other ſide, all that which ſhall be found in the Ships belonging to the Subjects of the Lords the States, ſhall be accounted clear and free, altho' the whole Lading, or any part thereof, by juſt Title of Propriety, ſhall belong to the Enemies of his Majeſty, except always contraband Goods, which being intercepted, all things ſhall be done according to the Meaning and Directions of the precedent Articles. And leſt any Damage ſhould by Surprize be done to the one Party who is in Peace, when the other Party ſhall happen to be engaged in War, it is provided and agreed, that a Ship belonging to the Enemies of the one Party, and laden with Goods of the Subjects of the other Party, ſhall not infect or render the ſaid Goods liable to Confiſcation, in caſe they were laden before the Expiration of the Terms and Times hereafter mentioned, after the Declaration or Publication of any ſuch War, *viz.* If the Goods were laden in any Port or Place between the Places or Limits called the *Soundings* and the *Naz* in *Norway*, within the Space of Six Weeks after ſuch Declaration, of Two Months between the ſaid Place the *Soundings* and the City of *Tangier*, and of Ten Weeks in the *Mediterranean* Sea, or within the Space of Eight Months in any other Country or Place of the World; ſo that it ſhall not be lawful to confiſcate the Goods of the Subjects of his Majeſty taken or ſeiz'd in any Ship or Veſſel whatſoever of any Enemy of the Lords the States upon that Pretence, but the ſame ſhall be without Delay reſtored to the Proprietors, unleſs they were laden after the Expiration of the ſaid Terms

Terms of Time reſpectively, but ſo that it may not be lawful for them afterwards to carry to Enemies Ports the ſaid Merchandizes which are called contraband, and for the reaſon aforeſaid ſhall not be liable to Confiſcation; neither on the other ſide ſhall it be lawful to confiſcate Goods of the Subjects of the Lords the States, taken or ſeized in any Ship or Veſſel whatſoever of any Enemy of his Majeſty upon that Pretence, but the ſame ſhall be forthwith reſtored to the Proprietors thereof, unleſs they were laden after the Expiration of the ſaid Terms of Time reſpectively, but ſo, that it may not be lawful for them afterwards to carry to Enemies Ports the ſaid Merchandizes which are called contraband, and for the reaſon aforeſaid ſhall not be liable to Confiſcation.

IX. And the more to aſſure the Subjects of his Majeſty and of the ſaid States that no Injury ſhall be offered to them by the Ships of War, or private Men of War of either ſide, all the Captains of the Ships, as well of his Majeſty as of the ſaid States, and all their Subjects who ſhall ſet out private Men of War, and likewiſe their privileged Companies, ſhall be enjoined not to do any Injury or Damage whatſoever to the other, which if they do, they ſhall be puniſhed, and moreover be liable to ſatisfy all Coſts and Damages, by Reſtitution and Reparation, upon Pain and Obligation of Perſon and Goods.

X. For this Cauſe all the Commanders of private Men of War ſhall from henceforth be obliged, before they receive their Commiſſions, to enter before a competent Judge, good and ſufficient Security by able and reſponſible Men, who have no Part or Intereſt in ſuch Ship, in the Sum of Fifteen Hundred Pounds Sterling, or Sixteen Thouſand Five Hundred Gilders; and when they have above One Hundred and Fifty Men, then in the Sum of Three Thouſand Pounds Sterling, or Three and Thirty Thouſand Gilders, that they will give full Satisfaction for any Damages or Injuries whatſoever, which they or their Officers, or others in Service, ſhall commit in their Courſes at Sea, contrary to this preſent Treaty, or any other whatſoever, between his Majeſty and the ſaid States, and upon Pain of Revocation and annulling their ſaid Commiſſions, in which it ſhall be always inſerted, that they have given ſuch Security as aboveſaid; and likewiſe it is agreed, that the Ship it ſelf ſhall be alſo liable to make Satisfaction for Injuries and Damages done by her.

XI. His Majeſty and the ſaid States being deſirous that the Subjects of each other may be mutually treated in all Countries under their Obedience reſpectively, with the like Kindneſs as their own Subjects, will give all neceſſary and effectual Orders, the

the Judgments upon Prizes taken be given according to the Rule of Juſtice and Equity by Judges beyond all Suſpicion, and not any way concerned in the Cauſe under Debate; and his Majeſty and the ſaid States will likewiſe give ſtrict Orders, that all Sentences already given, and which ſhall be hereafter given, be (according to the Tenor thereof) duly put in Execution, and obtain their Effect.

XII. And whenſoever the Ambaſſadors of the ſaid Lords the States, or any other their publick Miniſters, reſident at the Court of his moſt ſerene Majeſty of *Great Britain*, ſhall complain of the Unjuſtneſs of Sentences which have been given, his Majeſty will cauſe the ſame to be reviewed and examined in his Council, that it may appear whether the Orders and Precautions preſcribed in this Treaty have been obſerved, and have had their due Effect, and will alſo take care that the ſame be fully provided for, and that Right be done to the Party complaining within the Space of Three Months; and likewiſe when the Ambaſſadors, or other Publick Miniſters of his Majeſty, reſident with the States General, ſhall complain of the Unjuſtneſs of Sentences, the ſaid States will cauſe a Review and Examination thereof to be made in the Aſſembly of the States General, that it may appear whether the Orders and Precautions preſcribed in this Treaty have been obſerved, and have had their due Effect; and they will likewiſe take care that the ſame be fully provided for, and that the Right be done to the Party complaining within the Space of Three Months; nevertheleſs it ſhall not any ways be lawful to ſell or unlade the Goods in Controverſy either before the Sentence given, or after it, during the Review thereof on either ſide, unleſs it be with the Conſent of the Parties intereſted.

XIII. A Suit being commenced between the Takers of Prizes on the one Part, and the Claimers thereof on the other, and a Sentence or Decree being given for the Party reclaiming, the ſaid Sentence or Decree (upon Security given) ſhall be put in Execution, notwithſtanding the Appeal made by him that took the Prize, which ſhall not be obſerved, in caſe the Sentence ſhall be given againſt the Claimers.

XIV. And whereas the Maſters of Merchants Ships, and likewiſe the Mariners and Paſſengers, do ſometimes ſuffer many Cruelties and barbarous Uſages when they are brought under the Power of Ships which take Prizes in time of War, the Takers in an inhuman manner tormenting them, thereby to extort from them ſuch Confeſſions as they would have to be made; it is agreed, that both his Majeſty and the Lords the States General

ſhall

ſhall by the ſevereſt Proclamations or Placaerts forbid all ſuch heinous and inhuman Offences, and as many as they ſhall by lawful Proofs find guilty of ſuch Acts, they ſhall take care that they be puniſhed with due and juſt Puniſhments, and which may be a Terror to others; and ſhall command, that all the Captains and Officers of Ships, who ſhall be proved to have committed ſuch heinous Practices, either themſelves, or by inſtigating others to act the ſame, or by conniving while they were done, ſhall (beſides other Puniſhments to be inflicted proportionably to their Offences) be forthwith deprived of their Offices reſpectively; and every Ship brought up as Prize, whoſe Mariners or Paſſengers ſhall have ſuffered any Torture, ſhall forthwith be diſmiſſed and freed, with all her Lading, from all further Examination and Proceeding againſt her, as well judicial as otherwiſe.

XV. It is alſo agreed that the like Severity of Puniſhments ſhall be inflicted upon thoſe, who contrary to the meaning of the 21ſt Article of the Treaty of Peace concluded at *Breda*, ſhall take Commiſſions from Enemies, to ſeize the Ships of either Allie (or Party) contrary to what is provided in the ſaid Article.

XVI. Laſtly, It is agreed and concluded, that this preſent Treaty, and all and ſingular the Things therein contained, ſhall be with all convenient Speed on both ſides ratified and confirmed, and that the Ratifications thereof ſhall be within Two Months from the Date hereof, rightly and reciprocally exchanged between both Parties; and alſo that the ſaid Treaty ſhall within One Month after ſuch exchanging of the Ratifications, be delivered in due and authentick Form to the Governors of the *Engliſh Eaſt India* and *African* Companies, and to the Directors of the *Dutch Eaſt* and *Weſt India* Companies, and ſhall with the firſt Conveniency be alſo ſent by his ſaid Majeſty, and by the ſaid Lords the States, to their reſpective Governors and Commanders in chief of their Colonies and Plantations in every Part of the World out of *Europe*, to the end that it may be by them, and all others within their Dominions, and under their Power, punctually obſerved and fulfilled.

The Form of the Paſsport (or Sea Brief) to be asked of and given by the Lord High Admiral, or by thoſe to whom the Exerciſe of Admiralty Juriſdiction is ordinarily committed, or by the Mayor or other chief Magiſtrate, or by the Commiſſioners, or other principal Officers of the Cuſtoms in their reſpective Ports and Places within his Majeſty's Dominions, to the Ships and Veſſels ſailing out thence, according to the Purport of the Fifth Article.

TO all unto whom theſe Preſents ſhall come, greeting. We Lord High Admiral of We Lords Commiſſioners executing the Office of the Lord High Admiral of or We Judge of the High Court of the Admiralty of or We the Mayor, or other Magiſtrate of or We Commiſſioners, or principal Officers of the Cuſtoms in the City or Port of do teſtify and make known, that Maſter or Commander of the Ship called the hath appeared before Us, and hath declared by ſolemn Oath, that the ſaid Ship or Veſſel containing about Tuns, of which he is at preſent Maſter or Commander, doth belong to the Inhabitants of within the Dominions of the moſt ſerene and mighty Prince the King of *England*, *Scotland*, *France* and *Ireland*, Defender of the Faith, *&c.* So help him God. And in regard it would be moſt acceptable to Us that the ſaid Maſter or Commander be aſſiſted in his juſt and lawful Affairs, We do requeſt you, and every of you, whereſoever the ſaid Maſter or Commander ſhall arrive with his Ship, and the Goods laden on Board, and carried in her, that you would pleaſe to receive him courteouſly, and uſe him kindly, and admit him, upon paying the lawful and uſual Cuſtoms, and other Duties, to enter into, remain in, and paſs from your Ports, Rivers, and Dominions, and there to enjoy all Kind of Right of Navigation, Traffick, and Commerce, in all Places where he ſhall think fit, which We ſhall moſt willingly and readily acknowledge upon all Occaſions. In Teſtimony and Confirmation whereof We have with our Hand ſigned theſe Preſents, and cauſed them to be ſealed with our Seal. Dated at in the Day of in the Year of our Lord

The Form of the Paſport (or Sea Brief) to be asked of, and given by the Burgomaſter of the Cities and Ports of the united Netherlands, to the Ships or Veſſels ſailing from thence, according to the Purport of the Fifth Article.

TO the moſt ſerene, moſt illuſtrious, moſt mighty, moſt noble, moſt honourable, and moſt prudent Emperors, Kings, Governors of Commonwealths, Princes, Dukes, Earls, Barons, Lords, Burgomaſters, Schepens, Counſellors, Judges, Officers, Juſtices and Rulers of all Cities and Places, as well Eccleſiaſtical as Secular, to whom theſe Preſents ſhall be ſhewn, We the Burgomaſters and Rulers of the City of do certify, that Maſter or Skipper of the Ship appeared before us, and declared by ſolemn Oath, that the ſaid Ship called the containing about Laſts, of which he is at preſent Maſter or Skipper, belongeth to the Inhabitants of the united Netherlands. So help him God. And in regard it would be moſt acceptable to us, that the ſaid Maſter or Skipper be aſſiſted in his juſt and lawful Affairs, we do requeſt you, and every of you, whereſoever the ſaid Maſter or Skipper ſhall arrive with his Ship, and the Goods laden on Board and carried in her, that you would pleaſe to receive him courteouſly, and uſe him kindly, and admit him, upon paying the lawful and uſual Cuſtoms, and other Duties, to enter into, remain in, and paſs from your Ports, Rivers, and Dominions, and there to enjoy all Kind of Right of Navigation, Traffick and Commerce, in all Places where he ſhall think fit, which we ſhall moſt willingly and readily acknowledge upon all Occaſions. In Teſtimony and Confirmation whereof We have cauſed the Seal of our City to be hereunto put. Dated at in the Day of in the Year of our Lord

In Teſtimony and Confirmation of all and ſingular the Premiſſes, We the Commiſſioners of his Majeſty and the Lords the States General aforeſaid, being ſufficiently impowered thereunto, have to theſe Preſents ſubſcribed our Names, and ſealed them with our Seals, at London, *the Firſt Day of* December 1674.

Tho. Culpeper,	J. Corver,
G. Downing,	G. Sautyn,
Richard Ford,	Samuel Beyer,
Will. Thomſon,	And. Van Voſſen,
John Jolliffe,	P. Duvelaer,
John Buckworth,	M. Michielzen.

Expla-

Explanatory Declaration upon certain Articles of the Marine Treaties concluded between his Majeſty and the States General of the united Provinces Feb. 17. 166⅞. *and* Decemb. 1. 1674.

WHereas ſome Difficulty hath ariſen concerning the Interpretation of certain Articles, as well in the Treaty Marine which was concluded the Firſt Day of *December* 1674, as in that which was concluded the 17th of *February* 166⅞, between his Majeſty of *Great Britain* on the one Part, and the States General of the united Provinces of the Low Countries on the other, relating to the Liberty of their reſpective Subjects to Trade unto the Ports of each other Enemies, We Sir *William Temple* Baronet, Ambaſſador Extraordinary from his ſaid Majeſty of *Great Britain*, in the Name and on the Part of his ſaid Majeſty, and we *William van Heuckelom*, *Daniel van Wyngaerden* Lord of *Werckenham*, *Gaſpar Fagel* Counſellor and Penſioner of *Holland* and *Weſt Frieſland*, *John de Mauregnault*, *John* Baron of *Reede* and *Renſwoude*, *William de Haren* Gretman of the *Bilt*, *Henry Terborgh* and *Luke Alting* Deputies in the Aſſembly of the ſaid States General for the States of *Guelderland*, *Holland*, *Zeland*, *Utrecht*, *Frieſland*, *Overyſſell*, *Groningen*, and the *Omlands*, in the Name and on the Part of the ſaid States General, have declared, as we do by theſe Preſents declare, that the true Meaning and Intention of the ſaid Articles is, and ought to be, that Ships and Veſſels belonging to the Subjects of either of the Parties, can, and might, from the Time that the ſaid Articles were concluded, not only paſs, traffick and trade from a neutral Port or Place to a Place in Enmity with the other Party, or from a Place in Enmity to a neutral Place, but alſo from a Port or Place in Enmity to a Port or Place in Enmity with the other Party, whether the ſaid Places belong to one and the ſame Prince or State, or to ſeveral Princes or States, with whom the other Party is in War; and we declare that this is the true and genuine Senſe and Meaning of the ſaid Articles, purſuant whereunto we underſtand that the ſaid Articles are to be obſerved and executed on all Occaſions on the Part of his ſaid Majeſty and the ſaid States General, and their reſpective Subjects, yet ſo that this Declaration ſhall not be alledged by either Party for Matters which happened before the Concluſion of the late Peace in the Month of *February* 167⅞; and we do promiſe that the ſaid Declaration ſhall be ratified by his ſaid Majeſty and by the ſaid States General, and that within Two Months, or ſooner if poſſible, reckoning from the Day and Date of this Declaration, the Ratifi-

cations of the ſame ſhall be brought hither to the *Hague*, to be here exchanged. In Witneſs whereof we have ſigned theſe Preſents at the *Hague* this 30th Day of *December* 1675.

(*L. S.*) *W. Temple.*
(*L. S.*) *W. Van Heuckelom.*
(*L. S.*) *D Van Wyngaerden.*
(*L. S.*) *Gaſp. Fagel.*
(*L S.*) *Jo. Mauregnault.*
(*L. S.*) *John Baron van Reede van Heer van Renſwoude.*
(*L. S.*) *W. Haren.*
(*L. S.*) *H. Terborgh.*
(*L. S.*) *L. Alting.*

After the Concluſion of this Marine Treaty with *Holland*, the next that occurs is another of the ſame nature with *France*, and finding no other of a later Date extant between us and that Kingdom, I thought it might deſerve a Place here amongſt the reſt.

ARTICLE VIII.

A Treaty Marine between the moſt ſerene and mighty Prince Charles II. *by the Grace of God* King *of* England, Scotland, France *and* Ireland, *Defender of the Faith*, &c. *and the moſt ſerene and mighty Prince* Lewis XIV. *the moſt Chriſtian King, concluded at St.* Germains in Laye *the* 24*th Day of* February $167\frac{6}{7}$.

Art. I. THat it ſhall and may be lawful for all and every the Subjects of the moſt Serene and Mighty Prince the King of *Great Britain* aforeſaid, with all Freedom and Safety to Sail, Trade, and exerciſe any manner of Traffick in all thoſe Kingdoms, Countries, and Eſtates, which are, or at any time hereafter ſhall be in Peace, Amity or Neutrality with his ſaid Majeſty, ſo that they ſhall not be any ways hindred or moleſted in their Navigation or Trade by the Military Forces, nor by the Ships of War, or any other Kind of Veſſels whatſoever, belonging

longing either to the moſt Chriſtian King, or to his Subjects, upon Occaſion or Pretence of any Hoſtility or Difference which now is, or hereafter ſhall happen between the ſaid moſt Chriſtian King and any Princes or People whatſoever in Peace, Amity, or Neutrality with the ſaid King of *Great Britain*. And likewiſe that it ſhall and may be lawful for all and every the Subjects of the ſaid moſt Chriſtian King with all Freedom and Safety to Sail, Trade, and exerciſe any manner of Traffick in all thoſe Kingdoms, Countries, and Eſtates, which are, or at any time hereafter ſhall be in Peace, Amity, or Neutrality with the aforeſaid moſt Chriſtian King, ſo that they ſhall not be any ways hindred or moleſted in their Navigation or Trade by the Military Forces, nor by the Ships of War, or any other Kind of Veſſels whatſoever, belonging either to the King of *Great Britain* above mentioned, or to his Subjects, upon Occaſion or Pretence of any Hoſtility or Difference which now is, or ſhall hereafter happen between his Majeſty and any Princes or People whatſoever in Peace, Amity, or Neutrality with the ſaid moſt Chriſtian King.

II. Nor ſhall this Freedom of Navigation and Commerce be infringed by Occaſion or Cauſe of any War, in any Kind of Merchandizes, but ſhall extend to all Commodities which ſhall be carried in Time of Peace, thoſe only excepted which follow in the next Article, and are comprehended under the Name of contraband.

III. Under this Name of contraband, or prohibited Merchandizes, ſhall be comprehended only Arms, Pieces of Ordnance, with all Implements belonging to them, Fireballs, Powder, Match, Bullets, Pikes, Swords, Lances, Spears, Halberts, Guns, Mortar pieces, Petards, Granadoes, Muſquet Reſts, Bandeliers, Salt Petre, Muſquets, Muſquet Shot, Helmets, Corſlets, Breaſtplates, Coats of Mail, and the like Kind of Armature, Soldiers, Horſes, and all Things neceſſary for the Furniture of Horſes, Holſters, Belts, and all other Warlike Inſtruments whatſoever.

IV. Theſe Merchandizes following ſhall not be reckoned among prohibited Goods, *viz.* all Kind of Cloth, and all other Manufactures woven of any Kind of Wooll, Flax, Silk, Cotton, or any other Material; all ſorts of Cloathing and Veſtments, together with the Materials whereof they uſe to be made; Gold and Silver, as well coined as not coined, Tin, Iron, Lead, Copper, and Coals; as alſo Wheat and Barley, and all other Kind of Corn or Pulſe; Tobacco, and all Kind of Spices, ſalted and ſmoaked Fleſh, ſalted and dried Fiſh, Cheeſe, Butter, Beer, Oils, Wines,

Wines, Sugars, and all ſort of Salt, and in general all Proviſion which ſerves for the Nouriſhment and Suſtenance of Life; likewiſe all Kind of Cotton, Hemp, Flax, and Pitch, Ropes, Sails, and Anchors, alſo Maſts and Planks, Boards and Beams, of what ſort of Wood ſoever, and all other Materials requiſite for the building or repairing Ships, but they ſhall be wholly reputed amongſt free Goods, even as well as all other Wares and Commodities which are not comprehended in the next precedent Article, ſo that the ſame may be freely tranſported and carried by the Subjects of the moſt ſerene King of *Great Britain*, not only from one neutral Place to another neutral Place, or from a neutral Port or Place to a Place in Hoſtility with the moſt Chriſtian King, or from a Place in Hoſtility with him to a neutral Place, but alſo from one Place in Enmity with the moſt Chriſtian King to another Port or Place in Enmity with him, be it that ſuch Ports or Places do belong to the ſame Prince or State, or to ſeveral Princes or States with whom the moſt Chriſtian King ſhall happen to be in War; and in like manner that the ſame may be freely tranſported by the Subjects of the moſt Chriſtian King, not only from one neutral Place to another neutral Place, or from a neutral Port or Place to a Place in Hoſtility with the King of *Great Britain*, or from a Place in Hoſtility with him to a neutral Place, but alſo from one Place in Enmity with the King of *Great Britain* to another Port or Place in Enmity with him, be it that ſuch Ports or Places do belong to the ſame Prince or State, or to ſeveral Princes or States with whom the King of *Great Britain* ſhall happen to be in War, except only Towns or Places beſieged, environed, or inveſted, in *French*, *Blocquees ou Inveſties*.

V. And that all manner of Differences and Contentions on both ſides, by Sea and Land, may from henceforth ceaſe and be utterly extinguiſhed, it is agreed, that all Kind of Ships and Veſſels whatſoever belonging to the Subjects of his ſaid Majeſty of *Great Britain*, entring or being entred into any Road or Port under the Obedience of the moſt Chriſtian King, and purpoſing to paſs from thence, ſhall be only obliged to ſhew unto the Officers acting in the Ports of the ſaid moſt Chriſtian King, or to the Captains of the moſt Chriſtian King's Ships, or private Men of War (if any happen there to be) their Paſport, commonly called a Sea Brief (the Form whereof is added at the End of theſe Articles) nor ſhall any Money, or any thing elſe be exacted from them under that Pretence; but if any Ship belonging to the Subjects of his Majeſty of *Great Britain*, ſhall

ſhall in the open Sea, or elſewhere out of the Dominions of the ſaid moſt Chriſtian King, meet the Ships of War of the ſaid moſt Chriſtian King, or private Men of War of his Subjects, the ſaid Ships of the moſt Chriſtian King ſhall keep at a convenient Diſtance, and only ſend out their Boat, and it ſhall be lawful for them only with Two or Three Men to go on board the Ships and Veſſels of the Subjects of his Majeſty of *Great Britain*, that the Paſport (or Sea Brief) of the Propriety thereof (according to the Form hereafter ſpecified) may be ſhewn to them by the Captain or Maſter of ſuch Ship or Veſſel belonging to the Subjects of his Majeſty of *Great Britain*, and the Ship which ſhall ſhew the ſame ſhall freely paſs, and it ſhall not be lawful to moleſt, ſearch, detain, or divert the ſame from her intended Voyage; and all the Subjects of the moſt Chriſtian King ſhall enjoy in all things the ſame Liberty and Immunity, they in like manner ſhewing their Paſport (or Sea Brief) made according to the Form preſcribed at the latter End of this Treaty.

VI. But if any Ship or Veſſel belonging to the *Engliſh*, or other Subjects of his Majeſty of *Great Britain*, ſhall be met by any Man of War making into any Port in Enmity with the moſt Chriſtian King, or on the other ſide, if any Ship belonging to the moſt Chriſtian King, or others Subjects of the ſaid moſt Chriſtian King, ſhall be met in her Way making into any Port under the Obedience of the Enemies of his ſaid Majeſty of *Great Britain* ſuch Ship ſhall ſhew not only a Paſport (or Sea Brief) according to the Form here-under preſcribed, wherewith ſhe is to be furniſhed, but alſo her Cocquets, expreſſing the Contents of the Goods on board, given in the uſual Form by the Officers of the Cuſtoms in the Port from whence ſhe came, whereby it may be known whether ſhe is laden with any Merchandizes prohibited by the Third Article of this Treaty.

VII. But if by the ſhewing the aboveſaid Cocquets expreſſing the Contents of the Goods on board, given in the uſual Form by the Officers of the Cuſtoms in the Port from whence ſhe came (concerning the ſhewing whereof it is above agreed) either Party ſhall diſcover any Kind of Merchandizes which in the Third Article of this Treaty are declared to be contraband or prohibited, conſigned to any Port under the Obedience of their Enemies, it ſhall not be lawful to open the Hatches of ſuch Ship in which the ſame ſhall happen to be found, whether ſhe belongs to the Subjects of his Majeſty of *Great Britain* or of the moſt Chriſtian King, nor to unlock or break open the Cheſts, Mails, Packs, or Cask in the ſame, nor to convey away any the leaſt Part of the Merchan-

chandizes, before the whole be first landed in the Presence of the Officers of the Admiralty, and inventoried; neither shall it be any ways lawful to sell, exchange, or otherwise to alienate the same, until such prohibited Goods are rightly and lawfully proceded against, and that the Judges of the Admiralty have by their respective Sentences confiscated the same; provided always that as well the Ship it self, as the rest of the Commodities found in the same, which by this Treaty are to be reputed free, shall not upon Pretence of their being infected by such prohibited Goods, be detained, much less confiscated for lawful Prize; but if not the whole, but a Part only of the Lading consists of contraband or prohibited Commodities, and that the Master of the Ship shall be willing and ready to deliver them to the Captor who seized the same, in that Case the Captor shall not compel the Ship to go out of her Course to any Port he thinks fit, but shall forthwith dismiss her, and upon no Account hinder her from freely prosecuting her designed Voyage.

VIII. 'Tis further agreed, that whatsoever shall be found laden by the Subjects of his Majesty of *Great Britain* upon any Ship whatsoever belonging to the Enemies of the most Christian King, altho' the same be not of the Quality of contraband Goods, may be confiscated; but on the contrary, all that which shall be found in the Ships belonging to the Subjects of his Majesty of *Great Britain* shall be accounted clear and free, altho' the whole Lading, or any Part thereof, by just Title of Propriety shall belong to the Enemies of the most Christian King, except always contraband Goods, which being intercepted, all things shall be done according to the Meaning and Direction of the precedent Articles; and by the same reason whatsoever shall be found laden by the Subjects of the most Christian King in any Ship whatsoever belonging to the Enemies of his Majesty of *Great Britain*, altho' the same be not of the Quality of contrabandGoods, may be confiscated; but on the other side, all that which shall be found in the Ships belonging to the Subjects of the most Christian King shall be accounted clear and free, altho' the whole Lading, or any Part thereof, by just Title of Propriety shall belong to the Enemies of his Majesty of *Great Britain*, except always contraband Goods, which being intercepted, all things shall be done according to the Meaning and Direction of the precedent Articles. And lest any Damage should by Surprize be done to the one Party who is in Peace, when the other Party shall happen to be engaged in War, it is provided and agreed, that a Ship belonging to the Enemies

Enemies of the one Party, and laden with Goods of the Subjects of the other Party, ſhall not Infect or render the ſaid Goods liable to Confiſcation, in Caſe they were laden before the Expiration of the Terms and Time hereafter mentioned, after the Declaration and Publication of any ſuch War; (*viz.*) If the Goods were laden in any Port or Place between the Places or Limits called the *Soundings* and the *Naz* in *Norway*, within the ſpace of Six Weeks after ſuch Declaration; of Two Months between the ſaid Place, the *Soundings* and the City of *Tangier*; and of Ten Weeks in the *Mediterranean Sea*; or within the ſpace of Eight Months in any other Country or Place of the World; ſo that it ſhall not be lawful to Confiſcate the Goods of the Subjects of his Majeſty of *Great Britain*, taken or ſeized in any Ship or Veſſel whatſoever, of any Enemy of the moſt Chriſtian King upon that Pretence, but the ſame ſhall be without delay reſtored to the Proprietors, unleſs they were laden after the Expiration of the ſaid Terms of Time reſpectively, but ſo that it may not be lawful for them afterwards to carry to Enemies Ports the ſaid Merchandizes which are called Contraband; and for the Reaſon aforeſaid ſhall not be liable to Confiſcation; neither on the other ſide ſhall it be lawful to Confiſcate the Goods of the Subjects of the moſt Chriſtian King, taken or ſeized in any Ship or Veſſel whatſoever of an Enemy of his Majeſty of *Great Britain*, upon that Pretence, but the ſame ſhall be forthwith reſtored to the Proprietors thereof, unleſs they were laden after the Expiration of the ſaid Terms of Time reſpectively; but ſo that it may not be lawful for them afterwards to carry to Enemies Ports the ſaid Merchandizes which are called Contraband, and for the Reaſon aforeſaid, ſhall not be liable to Confiſcation.

IX. And the more to aſſure the Subjects of his Majeſty of *Great Britain*, and of the moſt Chriſtian King, that no Injury ſhall be offered to them by the Ships of War, or private Men of War of either Side, all the Captains of the Ships as well of his Majeſty of *Great Britain*, as of the moſt Chriſtian King, and all their Subjects who ſhall ſet out Private Men of War; and likewiſe their Privileged Companies ſhall be enjoyned not to do any Injury or Damage whatſoever to the other, which if they do, they ſhall be puniſhed, and moreover be liable to ſatisfie all Coſts, and Damages, by Reſtitution and Reparation, upon Pain and Obligation of Perſon and Goods.

X. For this Cauſe all the Commanders of Private Men of War ſhall from henceforth be obliged, before they receive their Commiſſions, to enter before a competent Judge, good and ſufficient Security, by able and reſponſible Men, who have no Part or Inte-

reſt in ſuch Ship, in the Sum of Fifteen hundred Pounds Sterling, or Sixteen thouſand five hundred *Livers*; and when they have above One hundred and fifty Men, then in the Sum of Three thouſand Pound Sterling, or Three and thirty thouſand *Livers*, that they will give full Satisfaction for any Damages or Injuries whatſoever, which they or their Officers, or others in their Services, ſhall commit in their Courſes at Sea, contrary to this preſent Treaty, or any other whatſoever, between his Majeſty of *Great Britain*, and the ſaid moſt Chriſtian King, and upon the Pain of Revocation and Annulling their ſaid Commiſſions; in which it ſhall be always inſerted, that they have given ſuch Security as aboveſaid; and likewiſe it is agreed, that the Ship it ſelf ſhall be alſo liable to make Satisfaction for Injuries and Damages done by her.

XI. His Majeſty of *Great Britain*, and the ſaid moſt Chriſtian King, being deſirous that the Subjects of each other may be mutually Treated in all Countries under their Obedience reſpectively, with the like kindneſs as their own Subjects, will give all neceſſary and effectual Orders, that Judgments upon Ships and Merchandize taken at Sea, be given according to the Rule of Juſtice and Equity, by Judges beyond all Suſpicion, and not any ways concerned in the Cauſe under Debate. And his Majeſty of *Great Britain*, and the moſt Chriſtian King, will likewiſe give ſtrict Orders, that all Sentences already given, and which ſhall be hereafter given, be according to the Tenour thereof duly put in Execution, and obtain their Effect.

XII. And whenſoever the Ambaſſadors, or other Publick Miniſters of the King of *Great Britain* reſiding in the Court of the moſt Chriſtian King, ſhall complain of the unjuſtneſs of Sentences which have been given concerning Ships or Merchandize taken at Sea, and belonging to the Subjects of the King of *Great Britain*, then the ſaid moſt Chriſtian King on Demand of the ſaid Ambaſſadors or Miniſters of the King of *Great Britain*, ſhall cauſe the ſaid Sentences to be reviewed and examined in his Privy Council, and ſhall confirm or revoke the Sentences whereſoever given; and likewiſe the ſaid moſt Chriſtian King ſhall take care that Right be done to the Party complaining with the ſpace of Four Months, to be accounted from the Day of making ſuch Demand. In like manner, if the Ambaſſadors, or other Publick Miniſters of the moſt Chriſtian King reſiding in the Court of the King of *Great Britain*, ſhall complain of the unjuſtneſs of Sentences which have been given concerning Ships or Merchandize taken at Sea, belonging to Subjects of the ſaid moſt Chriſtian King, the ſaid King of *Great Britain* ſhall forthwith commiſſionate under his Great Seal, Nine of his Privy Council to adjudge ſuch Matters, and to confirm

confirm or revoke the Sentences whereſoever given; and the ſaid Commiſſioners ſhall meet within the ſpace of One Month from the Day of delivering the Complaint: and likewiſe the King of *Great Britain* ſhall take care that Right be done the Party complaining within the ſpace of Three Months, to be computed from the firſt Day of the meeting of the ſaid Commiſſioners.

XIII. A Suit being commenced between the Takers of Prizes on the one Part, and the Claimers thereof on the other, and a Sentence or Decree being given for the Party reclaiming the ſaid Sentence or Decree, (upon Security given) ſhall be put in Execution, notwithſtanding the Appeal made by him who took the Prize; which ſhall not be obſerved in caſe the Sentence ſhall be given againſt the Claimers.

XIV. And whereas the Maſters of Merchant Ships, and likewiſe the Mariners and Paſſengers do ſometimes ſuffer many Cruelties and barbarous Uſages, when they are brought under the Power of Ships which take Prizes in time of War, the Takers in an inhuman manner tormenting them, thereby to extort from them ſuch Confeſſions as they would have to be made; it is agreed, that both his Majeſty of *Great Britain* and the moſt Chriſtian King, ſhall by the ſevereſt Proclamations or Edicts, forbid all ſuch heinous and inhuman Offences, and as many as they ſhall by lawful Proofs find guilty of ſuch Acts, they ſhall take care that they be puniſhed with due and juſt Puniſhments, and which may be a Terror to others, and ſhall command that all the Captains and Officers of Ships who ſhall be proved to have committed ſuch heinous Practices, either themſelves, or by inſtigating others to act the ſame, or by conniving while they were done, ſhall (beſides other Puniſhments to be inflicted proportionably to their Offences) be forthwith deprived of their Offices reſpectively; and every Ship brought up as Prize, whoſe Mariners or Paſſengers ſhall have ſuffered any Torture, ſhall forthwith be diſmiſſed and freed with all her Lading, from all further Examination and Proceeding againſt her, as well judicial as otherwiſe.

XV. It is alſo agreed, that the like Severity of Puniſhments ſhall be inflicted upon thoſe who ſhall take Commiſſion from Enemies to ſeize the Ships of either Ally or Party.

XVI. Laſtly, it is agreed and concluded, that this preſent Treaty, and all and ſingular the things therein contained, ſhall be with all convenient ſpeed on both Sides ratified and confirmed, and that the Ratifications thereof ſhall be within Two Months from the Date hereof rightly and reciprocally exchanged between both Parties.

Dated at *St. Germains in Laye* the Twenty fourth day of *February*, in the Year of our Lord 1677.

The Form of the Paſsport (or Sea Brief) to be asked of, and given by the Lord High Admiral, or by thoſe to whom the Exerciſe of Admiralty-Juriſdiction is ordinarily committed, or by the Mayor or other chief Magiſtrate, or by the Commiſſioners, or other principal Officers of the Cuſtoms, in their reſpective Ports and Places within the Dominions of the King of Great Britain, *to Ships and Veſſels, according to the Purport of the Fifth Article.*

TO all unto whom theſe Preſents ſhall come Greeting. We Lord High Admiral of
We Lords Commiſſioners executing the Office of the Lord High Admiral of or We the Mayor, or other Magiſtrate of or We Commiſſioners, or principal Officers of the Cuſtoms in the City or Port of
Do teſtifie and make known, that Maſter or Commander of the Ship called the hath appeared before Us, and hath declared by ſolemn Oath, that the ſaid Ship or Veſſel containing about
Tons, of which he is at preſent Maſter or Commander, doth belong to the Inhabitants of within the Dominions of the moſt Serene and Mighty Prince, the King of *England, Scotland, France,* and *Ireland,* Defender of the Faith, *&c.* So help him God. And in regard it would be moſt acceptable to Us, that the ſaid Maſter or Commander be aſſiſted in his juſt and lawful Affairs, We do requeſt you and every of you, whereſoever the ſaid Maſter or Commander ſhall arrive with his Ship, and the Goods laden on Board and carried in her, that you would pleaſe to receive him courteouſly, and uſe him kindly, and admit him, upon paying the lawful and uſual Cuſtoms and other Duties, to enter into, remain in, and paſs from your Ports, Rivers, and Dominions, and there to enjoy all kind of Right of Navigation, Traffick, and Commerce, in all Places where he ſhall think fit; which we ſhall moſt willingly and readily acknowledge upon all Occaſions: In Teſtimony and Confirmation whereof, We have with Our Hand Signed theſe Preſents, and cauſed them to be Sealed with Our Seal: Dated
the Day of in the Year of our Lord

And the like Form of Paſsport (*mutatis mutandis*) ſhall be uſed by the Subjects of the moſt Chriſtian King.

After

After the Concluſion of this Marine Treaty between *Great Britain* and *France*, I don't find any other of the ſame Nature in which this Crown is much concern'd, till the time of King *James* II. who in the Month of *Auguſt* 1685. renewed all former Alliance with the *Dutch*, and particularly the ſix following Treaties, *viz.*

I. A Treaty of Peace and Alliance, concluded the $\frac{21}{31}$ of *July*, in the Year 1667.

II. A Treaty of Commerce and Navigation of the ſame Date.

III. A Treaty of Peace and Friendſhip, concluded at *Weſtminſter* the $\frac{4}{14}$ of *February* $167\frac{3}{4}$.

IV. A Marine Treaty, concluded at *London* the 1ſt of *December*, 1674. together with a Declaration by which ſome Articles of the aforeſaid Treaty as well as of another Marine Treaty of the $\frac{7}{17}$ of *February*, $166\frac{7}{8}$ are more fully explained and expounded.

V. Articles concluded at *London*, the $\frac{8}{18}$ of *March*, $167\frac{4}{5}$. for terminating all Differences between the *Engliſh* and *Dutch Eaſt-India Companies*.

VI. A League Defenſive, concluded at *London*, the 3*d* of *March*, 1678.

The next remarkable Marine Treaty that occurs is, that between their late Majeſties K. *William* and Q. *Mary*, and the States General, concluded at *Whitehall*, the 29 of *April* 1689. in Purſuance of the Treaty concluded between K. *Charles* II. and the States, of the 3*d*. of *March*, 1678. which is confirmed by this with ſome Additions. The Articles are to this Effect.

I. That their Majeſties ſhall put to Sea 50 large Men of War, *viz.* 1, of the 2d, 17 of the 3d, and 32 of the 4th Rate, with 15 Frigats, and 8 Fire Ships, having on board in all 17155 effective Men.

II. That the States ſhould put to Sea 30 large Ships, *viz.* 8 from 70 to 80, 7 from 60 to 70, and 15 from 50 to 60 Guns, with 9 Frigats and 4 Fire Ships, which have on board 10572 effective Men.

III. That the Fleets ſhall join, where the King of *Britain* ſhall think fit.

IV. That the Fleets of the two Nations ſhall be divided into three Squadrons; the firſt to be of 50 large Ships, ſix Frigots, and 8 Fire Ships to ſerve in the *Mediterranean*; the ſecond of 30 large Ships, 8 Frigots, and 4 Fire Ships, to ſerve in the *Iriſh* Sea and in the Channel, except it be otherwiſe ordain'd by conſent, and the third of Ten Frigots, to ſerve between the Mouth of the Channel and *Yarmouth*, on the Coaſt of *England*, and the aforeſaid

aforesaid Place, and the Isle of *Waschere*, on the Coast of *Zeland*: The two last Squadrons to assist ocacsionally each other.

V. Each of the Squadrons shall be compos'd of the Ships of both Nations proportionably.

VI. All the Ships of both Squadrons shall be provided for one Year. What can't be conveniently kept aboard the Ships of the *Mediterranean* Squadron; the King of *Spain*, the Duke of *Tuscany* and the Republique of *Genoua*, shall be desir'd to give them a favourable Reception.

VII. Each Squadron shall be commanded by the *English* Admiral or Commander in chief.

VIII. The Councils of War shall be compos'd of all the Flag Officers of both Nations in equal Number; when the Votes are split, the Captains shall be called; the *English* Admiral shall be President, and the *English* Officers of equal Rank, shall have the precedency of the *Dutch*.

IX. All Causes relating only to the Officers, Sea Men, or Affairs of either of the Nations, shall be try'd by a Council of War of that Nation; but if both Nations are concern'd, the Officers of both shall be present at the Tryal.

XI. All Prizes shall be divided between their Majesties and the States, in proportion to the share they bear in the Charge of the Fleet. That is to say, their Majesty's shall have $\frac{2}{3}$ and the States $\frac{1}{3}$.

XII. Prizes shall be adjudg'd by the Admiralty of the Nation by whose Ships they were taken, and none but necessary Charge shall be allow'd, without any Fees for Officers.

XIII. And if the Prizes are taken by Ships of both Nations, they shall be adjudg'd by the Admiralty of the Nation, to whom the strongest Ships present at the Caption do belong.

XIV. The Ships of either Nation shall have special Orders to protect each others Merchant Men and Plantations in the *West Indies*.

XV. This Treaty to be ratify'd by both Parties.

This Treaty which I have here abridg'd, contains such remarkable Stipulations and Regulations for Marine Affairs, that I thought it very well deserv'd to be inserted. And that and all precedent Treaties between these Kingdoms and that State, were renewed and confirmed with Additions, by a Treaty of Friendship and Alliance, concluded at *London* in the Month of *August* following. And after that, in the Month of *October* 1692. a Treaty was concluded by the King of *Britain* and the States of *Holland* with the King of *Spain*, by which that Prince oblig'd himself to put to Sea at least 16 Men of War of 60 Guns each (which

(which I verily believe was more than he cou'd) with 4 Fire Ships, and 25 Gallies, and Proviſions for Ten Months; to be joyn'd by 16 other *Engliſh* and *Dutch* Men of War of the ſame Force, and 4 Fire Ships, upon Condition, that all friendly Offices ſhould be done them by the *Spaniard.*

'Tis obſervable, that as to the Ceremonial of the Salutation, and other ſuch Punctilio's, which neither of the Kings thought fit to yield to other in the Mediterranean, *(but which the King of* Spain *muſt have yielded to his* Britiſh *Majeſty in the* Britiſh *Seas) for avoiding of all Differences upon that Score, 'tis agreed, that there ſhall be no ſuch thing at all, as may be obſerv'd by the 10th Article as it here follows.*

X. The Men of War, Gallies and Fire Ships ſhall meet at the *Rendezvous* which ſhall be aſſign'd them, without any Ceremony, Salutation, or Counter Salutation; which ſhall be obſerved all the Time they act together, as well by the whole Fleet as by Detachments.

And ſo nice have Princes (and eſpecially the Kings of England) *always been upon this tender Point of the Marine, that for fear any ſmall Condeſcenſion of any of their commanding Officers ſhou'd afterwards militate againſt them, and be look't upon as a Deference paid to the* Spaniard, *'tis agreed by the Eleventh Article, that they ſhou'd meet the firſt time on board the* Dutch *Admiral, or other commanding Ships of that Nation, as under.*

XI. And for the firſt time, the commanding Officers ſhall meet in the Ship of the firſt *Dutch* Officer, there to regulate Matters, according to the Tenour of the ſeparate Articles, which ſhall be agreed on for the purpoſe.

Which ſeparate Articles here follow.

The commanding Officers ſhall meet without any Ceremony of Rank at the firſt joyning of the Fleet, in the Ship of the firſt *Dutch* Officer, and ſhall concert amongſt themſelves according to their Orders, the neceſſary Meaſures for acting againſt the Enemy with the greateſt Appearance of Succeſs.

After this I don't meet with any other Marine Treaty very remarkable, but that concluded at the general Peace of *Ryſwick*, between *France* and *Holland*; in which, beſides ſeveral other Matters relating to Commerce, it is agreed,

That the *French* and *Dutch* may freely frequent with their Ships and Merchandizes, the Countries, Lands, Towns, Ports and Places of each other, with equal and reciprocal Privileges, and without paying any other or greater Duties in each others Countries, than the natural Subjects of the Country.

That

That the Ships of War of either Nation ſhall always be free to come in, lye at Anchor, and go out of Roads, Rivers, Ports, and Harbours of each other, without being ſubject to any Search, provided they give not any reaſonable Cauſe of Jealouſy.

That the Ships of War of either Nation, whether belonging to the Sovereign or the Subjects, ſhall have Liberty to conduct whither they pleaſe, the Prizes they take from their Enemies, without paying any Duties or Fees; and on the contrary, no Retreat ſhall be allow'd to ſuch as have made Prize any of the Ships of his Majeſty or the States General, or their Subjects: But if they be forced in by Tempeſt or otherwiſe, they ſhall be obliged to depart as ſoon as poſſible.

That the Ships of either Nation, coming to an Anchor at any Port upon their Paſſage upon a longer Voyage, ſhall not be obliged to ſell any Part of their Goods; and that the Ships, nor Goods, nor Mariners, or other Subjects of either Nation, ſhall not be arreſted nor detained by the other, under any Pretence whatſoever, except it be for a juſt Cauſe, and according to the due Forms of Law.

That it ſhall be lawful for the Subjects of either Nation to Trade with the Enemies of the other, and to carry thither all Sorts of Goods that are not Contraband; under which Term are only comprehended, Arms and Ammunition, and Warlike Accoutrements of all Sorts for Men and Horſe. And the Ships of both Nations, whether at Sea or in any Port or Road, ſhall ſhew their Paſsports and other Sea Papers, in due Form, to which entire Credit ſhall be given.

That all Goods belonging to the Subjects of either Party, being ſeiz'd on board an Enemy's Ship, ſhall be confiſcated, except ſuch as have been laded; if between the Mouth of the Channel and *Norway*, more than 4 Weeks after the Declaration of the War, if between the Mouth of the Channel and Cape *St. Vincent*, more than ſix Weeks, if further in the *Mediterranean* or elſewhere on this ſide the Line, more than ten Weeks, and if beyond the Line, all the World over more than eight Months after the Publication of the War: And it is further agreed, that neither the Goods nor Perſons of Enemies ſhall be ſeiz'd by either Nation in the Ships of the other, except the Perſons be in the immediate Service of the other.

That any Captain of either Nation making Prize any Ships laded with Contraband Goods, ſhall not break open Coffers, Cheſts, Bails, or any other thing till the ſame be done in due Form by the Officers of the Admiralty, except the Captain of any Ship having only

only a Part of his lading contraband Goods, conſent to deliver the ſame up, and purſue his Voyage with the reſt.

That Judgment ſhall be given with all Juſtice and Expedition concerning all Ships taken at Sea; and upon the Complaint of the Miniſter or Envoy of either Party the Cauſe ſhall be heard over again in Council; and notwithſtanding the Appeal of the Captor, Sentences pronounc'd in favour of the Owners of Ships taken, ſhall be put in Execution, upon their giving Security to be forth coming.

That the Subjects of either Nation may freely freight, or cauſe to be built in the Dominions of the other, all manner of Ships, whether for War or Commerce, and that the Enemies of either ſhall not enjoy that Privilege.

That in Caſe of Shipwrack upon the Coaſt of either Nation, the Effects that can be ſaved ſhall be reſtored, if reclaimed within the Year and Day, without any Form of Proceſs.

That neither Party ſhall ſuffer the Ships of the other to be made Prize in their Ports or Harbours.

That this Treaty ſhall ſubſiſt Twenty Five Years.

By a ſeparate Article of the ſame Date the Duty of 50 *Sols* a Tun impos'd upon all foreign Ships in *France*, was taken off the *Dutch*, except only when the latter ſhould lade in one Port in *France*, to unlade at another in the ſame Kingdom. But the breaking out of the preſent War has now put a Stop to the Execution of this Treaty.

CHAP. XIV.

Containing ſeveral Forms of Charter-Parties and Bills of Bottomry, with a Policy of Inſurance, and ſome ſhort Remarks of Salutations, &c.

A Charter-Party, where the Ship is to apply to ſeveral Ports to diſcharge and re-lade.

THIS Charter-Party, indented, made the *&c.* between *A. B.* Maſter of the good Ship called the *Flower-de-luce* of *London*, of the Burthen of 2000 Tuns, or thereabouts, now riding at

Anchor in the River of *Thames*, near *London*, on the one Part, and *C. D.* of *London* Merchant on the other Part, witneſſeth, that the ſaid *A. B.* hath granted the Grant to freight the Ship, and letten the Ship to freight, and the ſaid *C. D.* hath hired the ſaid Ship for a Voyage, by God's Aſſiſtance, to be made with her as hereafter is expreſſed.

That is to ſay, the ſaid *A. B.* for himſelf, his Executors, and Adminiſtrators, doth covenant, grant, and agree to and with the ſaid *C. D.* his Executors and Adminiſtrators, by theſe Preſents, that the ſaid Ship, with the firſt good Wind and Weather that God ſhall ſend next after the 20th Day of, *&c.* next enſuing the Date above written, ſhall ſet Sail and depart from and out of the River of *Thames* aforeſaid unto her ſaid intended Voyage, and before her ſaid Departure ſhall receive and take into her all ſuch Goods and Merchandizes which ſhe may conveniently and ſafely ſtow and carry in her (over and above her Victuals, Tackle, and Apparel) as the ſaid *C. D.* his Factors or Aſſigns ſhall think fit to lade into her, and by God's Aſſiſtance, as Wind and Weather ſhall ſerve (the Perils and Dangers of the Sea only excepted) ſhall directly ſail to and apply unto *Nantz* in *Britany*, and there diſcharge and unlade the ſaid Goods and Merchandizes out of her, and there alſo to receive, re-lade, and take in, unto, and aboard her, all ſuch other Goods and Merchandizes as ſhe may conveniently ſtow and carry, as aforeſaid, and as the ſaid *C. D* his Factors or Aſſigns ſhall appoint and think fit to lade into her.

And then the ſaid Ship, with the firſt good Wind and Weather that God ſhall ſend (the Dangers and Hazards of the Sea excepted) ſhall directly ſail and apply to the Iſland of St. *Michael*, within the Dominion of the King of *Portugal*, and ſhall there unlade and make a Diſcharge of the ſaid Goods, and re-lade again, according to the Direction and Appointment of the ſaid *C. D.* his Factors or Aſſigns, and with ſuch Goods, Wares, and Merchandize, as the ſaid *C. D.* his Factors or Aſſigns, ſhall think fit to lade into her, not exceeding the Proportion that the ſaid Ship can ſafely ſtow and carry, as aforeſaid; and then the ſaid Ship, with the firſt good Wind and Weather that God ſhall ſend (the Perils and Dangers of the Sea only excepted) ſhall directly ſail and apply unto the Iſland of *Terceras* and *Fial*, within the Dominions of, *&c.* and there unlade and make Diſcharge of the ſaid Goods and Merchandizes, and ſhall there re-lade and take into and aboard her again all ſuch Goods and Merchandizes as are there uſually laden, according to the Order and Direction of the ſaid *C. D.* his Factors or Aſſigns, and which the ſaid *C. D.* his Factors or Aſſigns ſhall think fit to re-lade, or cauſe to be re-laden, aboard the

the ſaid Ship, and which ſhe may conveniently ſtow and carry in her, as aforeſaid, over and above her Victuals, Tackle, and Apparel.

And then the ſaid Ship, ſo being laden at the Iſland of *Terceras* and *Fial*, as aforeſaid, as Wind and Weather ſhall ſerve, and the Perils and Dangers of the Sea excepted, ſhall with her ſaid Burden return, and come to the Iſland of St. *Michael* aforeſaid, and there unlade and make a Diſcharge of the ſaid Goods and Merchandizes, and receive into and aboard her there ſuch other Goods and Merchandizes as the ſaid Merchant, his Factors, or Aſſigns, ſhall think fit, and pleaſe to lade into and aboard her, and are there accuſtomed to be laden, and which the ſaid Ship can ſafely ſtow and carry, as aforeſaid.

And then the ſaid Ship, with the firſt good Wind and Weather that God ſhall afterwards ſend, the Perils and Dangers of the Sea excepted, ſhall directly ſail and apply to *Dartmouth*, *Plimouth*, or the *Iſle of Wight*; and the ſaid Ship being arrived at one of the ſaid Places, he the ſaid *A. B.* or ſuch Perſon as ſhall be Maſter of the ſaid Ship for the Time being, ſhall from thence ſend expreſs Notice in Writing, to be given or left to or for the ſaid *C. D.* his Executors, Factors, or Aſſigns, at or in the now Dwelling Houſe of the ſaid *C. D.* ſituate in *D.* near *Aldgate*, *London*, that the ſaid Ship and Goods are ſafely arrived at one of the ſaid laſt mentioned Places, and at ſuch Place of Arrival the ſaid Ship ſhall ſtay and abide the Space of Ten Days for Anſwer and Direction, to be returned and given by him the ſaid *C. D.* his Executors, Adminiſtrators, Factors, or Aſſigns, for the ſailing and applying of the ſaid Ship unto *Haver-de-grace* in *France*, or *Amſterdam* in *Holland*, or the Port of the City of *London*; the Charge of ſending a Meſſenger to give ſuch Intelligence as aforeſaid, to be ſatisfied and paid by the ſaid *C. D.* his Executors, Adminiſtrators, or Aſſigns.

And according to ſuch Anſwer and Appointment ſhall with the firſt good Wind and Weather that God ſhall ſend, the Perils and Dangers of the Sea excepted, directly ſail and apply to *Haver-de-grace*, or *Amſterdam*, or the Port of *London*, which of the ſaid Places the ſaid Ship ſhall be ſo ordered or appointed to ſail and apply unto; and within Ten Days after that Arrival of the ſaid Ship at the ſame Place ſo to be appointed, the ſaid Ship ſhall make her right Diſcharge of the ſaid Merchants Goods and Merchandizes, and there to end and finiſh her ſaid intended Voyage, (the Perils and Dangers of the Sea excepted.)

And it is further agreed by and between the ſaid Parties to theſe Preſents, that the ſaid Ship ſhall tarry and abide at *Nantz*

the Iſland of St. *Michael*, and *Terceras*, and *Fial*, before mentioned, for her ſeveral Diſcharges and re-lading at the ſaid ſeveral Places, as aforeſaid, the Space of Sixty Days in the whole, that is to ſay, at *Nantz* Twenty Days, at the ſaid Iſland of St *Michael* Twenty Days, and at *Terceras* and *Fial* aforeſaid Twenty Days, within which ſeveral Times before limited and expreſſed the ſaid *C. D.* for himſelf, his Executors and Adminiſtrators, by theſe Preſents to diſcharge and re-lade the ſaid Ship in Manner and Form at the ſeveral Places and Ports of *Nantz*, St. *Michael*, and *Terceras*, and *Fial*, before mentioned.

And within the ſaid Space of Ten Days before limited, after Notice of the Arrival of the ſaid Ship, as aforeſaid, at *Dartmouth*, *Plimouth*, or the *Iſle of Wight*, ſhall give Order and Direction to the ſaid *A. B.* or the Maſter of the ſaid Ship for the Time being, whether the ſaid Ship ſhall ſail to *Haver-de-grace*, *Amſterdam*, or the Port of the City of *London*, to make her right Diſcharge, and ſhall at ſuch Place to be appointed diſcharge, or cauſe to be diſcharged and unladen, the ſaid Goods and Merchandizes of the ſaid Ship within Twelve Days after the Arrival of the ſaid Ship at ſuch appointed Place of Diſcharge, as aforeſaid.

And that the ſaid *C. D.* his Executors, Adminiſtrators, Factors, or Aſſigns, ſhall and will well and truly pay, or cauſe to be paid, unto the ſaid *A. B.* his Executors, Adminiſtrators, or Aſſigns, Freight for the ſaid Ship, after the rate of Four Pounds the Tun, of lawful Money of *England*, for every Tun of Goods and Merchandize that ſhall be unladen of and from the ſaid Ship at the ſeveral Ports and Places before mentioned, accounting Three Cheſts of Sugar to the Tun, *&c.* (and ſo put down the ſeveral Proportions that is reputed a Tun at the ſeveral Places) and then add, and for other Goods and Merchandizes, according to the uſual Cuſtom.

And all ſuch Sum and Sums of Money that ſhall ariſe and grow due and payable for the Freight and Hire of the ſaid Ship, as aforeſaid, ſhall be ſatisfied and paid unto the ſaid *A. B.* his Executors, Adminiſtrators, or Aſſigns, within Six Days next after the Diſcharge of the ſaid Ship at *Haver-de-grace*, or *Amſterdam*, aforeſaid, which of them ſhall be appointed, as aforeſaid, for the ſaid Ship to make her Diſcharge at, and the ſame Monies alſo to be paid according to the Courſe of the Exchange at ſuch Place to be appointed, as aforeſaid.

And it is agreed by and between the ſaid Parties to theſe Preſents, that in Caſe the ſaid *C. D.* ſhall not fully lade the ſaid Ship at the Ports and Places aforeſaid appointed for the lading thereof, or any of them, yet nevertheleſs the ſaid *C. D.* his Executors,

Executors, Adminiſtrators, or Aſſigns, ſhall well and truly pay or cauſe to be paid unto the ſaid *A. B.* his Executors, Adminiſtrators, or Aſſigns, at, and after the Rate of Four Pounds the Tun, for ſo many Tuns, as the ſaid Ship can or may conveniently ſtow or carry, in Manner and Form aforeſaid, together with Average accuſtomed.

And it is agreed, by and between the ſaid Parties to theſe Preſents, that all Port Charges, that ſhall ariſe and grow due to be paid, for and in reſpect of the ſaid Ship, in the ſaid intended Voyage, ſhall be ſatisfied and paid in Manner and Form following, (*viz.*) Two Parts thereof by the ſaid *C. D.* his Factors or Aſſigns, and one third Part thereof by the ſaid *A. B.* his Executors or Aſſigns.

And it is agreed by and between the ſaid Parties to the Preſents (notwithſtanding any Matter or Thing herein before contained) that in caſe Neceſſity ſhall require, it ſhall and may be lawful to, and for the ſaid *C. D.* his Factors or Aſſigns, or any of them, to keep the ſaid Ship at Demorage, at the ſeveral Places and Ports aforeſaid, of *Nantz*, St. *Michael*, *Terceras*, and *Fyal*, the ſpace and time of thirty Days and no more, after the end and expiration of the ſaid ſixty Days before limited, for the ſaid Ship to ſtay at the ſaid Places and Ports: That is to ſay, *viz.* Ten Days at *Nantz*, ten Days at St. *Michael*, and ten Days at *Terceras* and *Fyal*, before mentioned; for every Day of which Demorage over and above the ſaid ſixty Days, the ſaid *C. D.* his Factors and Aſſigns ſhall well and truly pay, or cauſe to be paid unto the ſaid *A. B.* his Executors, Adminiſtrators or Aſſigns, the Sum of three Pounds of lawful Money of *England*, and the ſaid Monies that ſhall ariſe and grow due for *Demorage*, as aforeſaid, ſhall be paid, *&c.* (*here ſet down the Day when.*)

And it is moreover agreed by and between the ſaid Parties to theſe Preſents, that the ſaid *C. D.* his Factors or Aſſigns, ſhall well and truly pay or cauſe to be paid unto the ſaid *A. B.* his Executors or Aſſigns, or ſuch as ſhall be Maſter of the ſaid Ship for the time being, all ſuch Sum and Sums of Money, as he or they ſhall have occaſion for at the Iſland of St. *Michael*, and at *Terceras* and *Fyal*, aforeſaid; ſo that all the ſaid Sum and Sums of Money, ſo to be paid, as aforeſaid, exceed not in the whole the Sum of, *&c.* which ſaid Sum and Sums of Money ſo to be paid, are to be deducted upon the Payment made for the Freight of the ſaid Ship in Manner and Form aforeſaid.

And it is ſo agreed byand between the ſaid Parties to theſe Preſents, that the ſaid Maſter, his Factors or Aſſigns, ſhall not lade or cauſe to be laden any Goods or Merchandizes abroad the ſaid Ship, for any other Merchant or Perſons whatſoever, except the ſaid

C. D.

C. D. ſave only the Quantity or Proportion of five Tuns, which the ſaid Maſter or his Company may lade for their own uſe at the time of Lading the ſaid Ship, at the ſeveral Ports aforeſaid, without Allowance for the ſame, if Occaſion ſhall require.

And the ſaid *A. B.* for himſelf, his Executors, and Adminiſtrator, doth Covenant and Grant, to and with the ſaid *C. D.* his Executors, Adminiſtrators, and Aſſigns, by theſe Preſents: That the ſaid Ship at the time of her Departure from and out of the ſaid River of *Thames* upon her ſaid intended Voyage, ſhall be ſtrong and ſufficiently victualled, tackled, furniſhed, and apparelled, with Maſts, Sails, Anchors, Cables, Ropes, Cords, Boat and Oars, twelve pieces of Ordnance, Guns, Gunpowder, Shot, Tackle, Apparel, Ammunition, and Furnature, meet and needful for the ſaid Ship and Voyage, together with a Maſter, and twenty Men and one Boy; which Men and Boy, or ſo many of them as ſhall be needful, ſhall be ready at all convenient times with the ſaid Ship's Ship-Boat, to ſerve the ſaid Maſter, his Factors or Aſſigns, to and from the Land, during the ſaid Voyage, and to diſcharge and relade the ſaid Ship, as Occaſion ſhall ſerve.

And to the Performance of all and ſingular the Covenants, Grants, Articles, Agreements, and other things herein contained, by, and on the Part and Behalf of the ſaid *A. B.* his Executors or Adminiſtrators, to be done and performed as aforeſaid, the ſaid *A. B.* binds himſelf, his Executors and Adminiſtrators, and eſpecially the ſaid Ship with her Tackle, Apparel, and Furniture, unto the ſaid *C. D.* his Executors, Adminiſtrators, and Aſſigns, in the penal Sum of One Thouſand Pounds of Lawful Moneys of *England*, by theſe Preſents to be well and truly paid unto the ſaid *C. D.* his Executors, Adminiſtrators, or Aſſigns, upon Non-performance, or Non-obſervance of any of the ſaid Covenants and Agreements, on his Part to be done and performed, according to the Intent and true Meaning of theſe Preſents.

The like for the other Party who is to bind himſelf, his Executors and Adminiſtractors, and his Goods and Chattels in the like Penalty of One Thouſand Pound to perform, *&c.*

In Witneſs, &c.

Another Charter-Party, where the Ship is let for Twelve Months, and the Hire to be at a certain Sum by the Month.

IN *the Name of G O D. Amen.* This Charter-Party indented of Affrieghtment made the, *&c.* Between *A. B.* and *E. F.* of *&c.* Part-Owners of the good Ship called the *D.* of *London*, of the Burthen

then of 200 Tuns, or thereabouts, now riding at Anchor in the River of *Thames*, within the Port of the City of *London*, of which Ship the ſaid *E. F.* is Maſter under God, on the one Part, and *A. B.* of *London* on the other Part:

Witneſſeth, That the ſaid *A. B.* and *E. F.* have granted and letten to Freight, and by theſe Preſents, do grant and let unto Freight, the ſaid Ship unto the ſaid *C. D.* by the Month, for and during the ſpace of twelve Months, to begin and to be accompted from the Departure of the ſaid Ship from *Graves-End* outward-bound upon her intended Voyage, at and for the Rate and Price of, *&c.* of lawful Monies of *England* by the Month, and for ſuch and ſo long time after the Expiration of the ſaid twelve Months, (not exceeding ſix Months more) as it ſhall pleaſe the ſaid *C. D.* his Factors or Aſſigns, to keep the ſaid Ship in his Service and Imployment, at and for the Rate of the like Sum of, *&c. per* Month, and ſo and after the ſame Rate and Price for a leſſer time than a Month, accompting the Months as they ſhall fall out in the *Kalender:* And the ſaid Maſter hath accordingly hired and taken the ſaid Ship by the Month, after the Rate and Price aforeſaid, for a Voyage by God's Aſſiſtance to be made with her, as is hereafter mentioned.

That is to ſay, the ſaid *A. B.* and *E. F.* for themſelves, their Executors and Adminiſtrators, do jointly and ſeverally Covenant and Agree, to and with the ſaid *C. D.* his Executors, Adminiſtrators and Aſſigns, by theſe Preſents, that the ſaid Ship upon or before the Twentieth Day of, *&c.* next enſuing the Date hereof (Wind and Weather permitting) ſhall be ready to ſet ſail and depart from *Graves-End* aforeſaid, upon her ſaid intended Voyage, and as Wind and Weather ſhall permit, (the Perils and Dangers of the Sea excepted) ſhall directly ſail and apply unto the Streights of *G.* where the ſaid Ship may ſafely arrive, and lawfully Trade, not exceeding the Latitude of Thirty Degrees; and further to the South, as the ſaid Merchant, his Factors or Aſſigns ſhall direct and appoint; and that the ſaid Ship (the Perils and Dangers of the Sea excepted) ſhall end her ſaid Voyage in the Port of *London*.

And further, that the ſaid Ship before her Departure from hence, and during the time that ſhe ſhall be in the ſaid Service and Imployment of the ſaid *C. D.* his Factors or Aſſigns by vertue hereof, ſhall lade, receive, and take into her, and alſo diſcharge and unlade out of her, all ſuch Goods, Merchandizes and Lading, which ſhe may conveniently ſtow and carry in her, over and above her Victual of the Cage, Tackle and Apparel, as the ſaid Merchant, his Factors or Aſſigns ſhall think to lade into her, and to diſcharge and unlade out of her.

And

And the ſaid *C. D.* for himſelf, his Executors and Adminiſtrators, doth Covenant and Grant, to and with the ſaid *A. B.* and *E. F.* and either of them, their and either of their Executors, Adminiſtrators, and Aſſigns, by theſe Preſents, that he the ſaid Merchant, his Factors or Aſſigns, ſhall and will permit and ſuffer the ſaid Ship with her Ordnance, Tackle, and Apparel, to be ſafely returned into the River of *Thames*, from the ſaid Voyage, and to be their diſcharged from and out of her ſaid intended Imployment at the Expiration of eighteen Months (at the fartheſt) to be accounted from the Time of the ſaid Ships entrance into Monthly Pay, as aforeſaid (the Perils and Dangers of the Sea, and neceſſary uſe and wearing of her Tackle, Apparel, and Furniture, in the mean time only excepted.)

And further, that the ſaid *C. D.* his Executors, Adminiſtrators, and Aſſigns, ſhall and will well and truly pay or cauſe to be paid unto the ſaid *A. B.* and *E. F.* or one of them, their or one of their Executors, Adminiſtrators, or Aſſigns, in *London*, Freight, for the ſaid Ship, for the ſaid intended Voyage, at and after the aforeſaid Rate of, *&c.* of lawful Money of *England*, Monthly (to be accounted as aforeſaid by the *Kalendar*) for every Month, that the ſaid Ship ſhall remain and be in Service and Imployment of the ſaid Merchant, his Factors or Aſſigns, by vertue of theſe Preſents, and after the ſame Rate for a ſhorter Time than a Month: That is to ſay, from the Time of the Ships firſt entrance into her monthly Pay, as aforeſaid, until ſhe ſhall return into the ſaid River of *Thames* from her ſaid intended Voyage, and be their diſcharged from and out of her ſaid Imployment.

And that all the Monies which at and after the Rate aforeſaid, ſhall ariſe and grow due to be paid for the Freight of the ſaid Ship, for her ſaid intended Voyage, ſhall be well and truly paid to the ſaid *A. B.* and *E. F.* or one of them, their or one of their Executors, Adminiſtrators or Aſſigns in *London*, in Manner and Form following; that is to ſay, the one half or Moiety thereof, within ten Days next after the Return and Diſcharge of the ſaid Ship, in the ſaid River of *Thames*, and the other Moiety or half Part thereof within three Months next following, from and after the Determination and Expiration of the ſaid ten Days, together with Average, Primage, and Petty-loadmenage accuſtomed.

Nevertheleſs, it is concluded and fully agreed upon, by and between the ſaid Parties to theſe Preſents: That in caſe the ſaid Ship ſhall be out upon her intended Voyage the Space or Time of ſix Months, to be accounted by the *Kalender*, as aforeſaid: And at the end of the ſaid ſix Months, ſhall be well and in ſafety in the Service of the ſaid *C. D.* his Factors or Aſſigns: That then the ſaid Merchant,

chant, his Factors or Aſſigns, ſhall within three Months next after the Expiration of the ſaid ſix Months (true and certain Notice or Certificate of ſuch the well-being of the ſaid Ship, at the end of the ſaid ſix Months, being in the mean time given or left to and for the ſaid *C. D.* his Executors or Aſſigns, at his now dwelling Houſe in, *&c.*) well and truly pay or cauſe to be paid unto the ſaid *A. B.* and *E. F.* or one of them, their or one of their Executors, Adminiſtrators, or Aſſigns, ſo much for Freight as at the Rate aforeſaid, ſhall be due for the ſaid Ship for ſix Months Service: And further, that if the ſaid Ship ſhall be out upon the ſaid Voyage, the ſpace or time of twelve Months, to be accounted as aforeſaid, and at the end of the ſaid twelve Months, ſhall be well and in ſafety in the Service of the ſaid Merchant, his Factors or Aſſigns: That then the ſaid *C. D.* his Executors, Adminiſtrators, or Aſſigns, ſhall within two Months next after the end and expiration of the ſaid twelve Months (true and certain Notice and Certificate of ſuch the well-being of the ſaid Ship at the end of the ſaid twelve Months, being in the mean time given or left in Manner and Form aforeſaid, to and for the ſaid *C. D.* his Executors, Adminiſtrators or Aſſigns) well and truly pay or cauſe to be paid unto the ſaid *A. B.* and *E. F.* or one of them, there or one of their Executors, Adminiſtrators or Aſſigns in *London*, over and above the ſaid firſt ſix Months Freight, ſo much for Freight, as at and after the Rate aforeſaid, ſhall be due for ſix Months more.

And it is further Enacted by, and between the ſaid Parties to theſe Preſents, that in caſe the ſaid Ship ſhall be returned within the River of *Thames* from the ſaid Voyage, and be there diſcharged of and out of her ſaid intended Imployment, before the Expiration of twelve Months, to be accounted as aforeſaid, yet nevertheleſs, the ſaid *C. D.* his Executors, Adminiſtrators or Aſſigns, ſhall pay and allow unto the ſaid *A. B.* and *E. F.* or one of them, their or one of their Executors, Adminiſtrators or Aſſigns, for the ſaid Ship after the Rate aforeſaid, for the full time of twelve Months, to be accounted as aforeſaid, any thing herein before contained to the contrary thereof in any wiſe notwithſtanding.

And the ſaid *C. D.* for himſelf, his Executors, and Adminiſtrators, doth covenant and grant to and with the ſaid *A. B.* and *E. F.* and either of them, their and either of their Executors and Adminiſtrators by theſe Preſents, that he the ſaid *C. D.* his Executors, or Adminiſtrators, ſhall furniſh and deliver during the ſaid Voyage unto the Maſter of the ſaid Ship, for the time being, all ſuch Monies as he ſhall have Occaſion to uſe for buying of Proviſion, and other Neceſſaries, and for Payment of Men's Wages not in the whole exceeding the Sum of, *&c.* Sterling; which ſaid

Money ſhall be deducted and allowed from time to time out of the Freight or Hire for the ſaid Ship, that ſhall be reſpectively grown or become due for the ſaid Ship by Virtue of theſe Preſents.

And the ſaid *A. B.* and *E. F.* for them, their Executors, and Adminiſtrators, do jointly and ſeverally Covenant and Grant to and with the ſaid *C. D.* his Executors, Adminiſtrators, and Aſſigns, by theſe Preſents:

That the ſaid Ship at the time of her Departure from *Graves-End* aforeſaid, ſhall be ſtrong and ſtanch, and well and ſufficiently victualled, tackled, furniſhed and apparelled with Maſts, Sails, Sail-yards, Anchors, Cables, Ropes, Boat, Boat-Oars, five and twenty Pieces of Ordnance, Guns, Gun-powder, Shot, Tackle, Apparel and Furniture, meet and needful for the ſaid Ship and Voyage, together with a Maſter, One hundred and forty Men, and a Boy, which Men and Boy, or ſo many of them as ſhall be requiſite, ſhall be ready at all time and times, with the Boat of the ſaid Ship to ſerve and carry the ſaid Merchant, his Factors and Aſſigns, and Goods and Merchandizes of the ſaid Maſter, according to the Cuſtom, to and from the Land during the ſaid Voyage.

And it is agreed, by and between the ſaid Parties to theſe Preſents, that all ſuch Port-charges, as ſhall ariſe and grow due to be paid during the ſaid Voyage, and all ſuch Steringree, as during the ſaid Voyage ſhall be uſed in and about the ſaid Ship, ſhall be paid, born, and ſuſtained in Manner and Form following: That is to ſay, the one Moiety or half Part thereof by the ſaid Merchant, his Executors, Adminiſtrators, or Aſſigns, and the other half Part thereof by the ſaid Part-Owners, their Executors, and Aſſigns.

Both to bind themſelves to perform the Covenants on each Part to be performed.

Another between the Owners of a Ship, and a Merchant, for the Lading thereof with Salt, and diſcharging the ſame in Ireland.

THIS Charter-Party indented, made the, *&c.* between *A. B.* and *C. D.* of *London*, Grocers, Owners of the Good Ship called the *D.* of *London*, of the Burthen of Eighty Tuns or thereabouts, whereof is Maſter for the preſent Voyage, *J. N.* on the one Part, and *E. F.* of *Dublin* in *Ireland*, Merchant on the other Part, witneſſeth, that it is covenanted, concluded, and agreed, by and between the ſaid Parties, in Manner and Form following.

That is to ſay, the ſaid *A. B.* and *C. D.* for them, their Adminiſtrators and Aſſigns, and for every of them, do Covenant and Grant, to and with the ſaid *E. F.* his Executors, Adminiſtrators, and

and Aſſigns, and either of them, by theſe Preſents, that the ſaid Ship, within the ſpace of eight Days now next enſuing, or ſo ſoon after as Wind and Weather will permit, ſhall at the Charge and Adventure of the ſaid Owners, depart from and out of the Port of *London*, aforeſaid, where ſhe now rideth at Anchor, and from thence ſhall keep direct Courſe, and ſhall ſail as Wind and Weather will permit (the Perils and Dangers of the Sea excepted) towards ſome of the Bays for Salt within the Kingdoms or Territories of *France*, *Spain*, and *Portugal*. And that the ſaid *A. B.* and *C. D.* their Factors or Agents at their or ſome of their Coſt and Charges, ſhall their with all convenient Expedition, fully Freight and Lade, or cauſe to be laden the ſaid Ship, with good and merchandizable Salt.

And ſhall then immediately as Wind and Weather ſhall ſerve, at their like Adventure and Hazard, as aforeſaid, depart from the ſaid Place of Lading with the ſaid Ship and Burthen towards the Port of *Dublin* in *Ireland*, and that for the attaining to the ſaid Port of *Dublin*, the ſaid Maſter and his Mariners, with all good Endeavour according to their Knowledge and Underſtanding, ſhall ſet and apply their Courſe without any Fraud or Covin.

And that ſo ſoon as the ſaid Ship ſhall have finiſhed her ſaid appointed Voyage, and ſhall arrive in ſafety with her ſaid Lading in the Port of *Dublin* aforeſaid, that then in the ſaid Port the ſaid Ship ſhall ride at Anchor, in the common Place of Anchorage there, called the Pool of *Clumm-Turf*, and that then within one Day next after the ſaid Arrival there, the ſaid Maſter or Owners, or one of them, or ſome of their Factors, Agents or Meſſengers ſhall ſignifie and give notice of the ſaid Arrival of the ſaid Ship, unto the ſaid *E. F.* his Executors, Adminiſtrators, Factors or Aſſigns, at the now dwelling Houſe of the ſaid *E. F.* in *Dublin* aforeſaid, and then and there ſhall be ready to deliver all the Salt laden into the ſaid Ship, which ſhall be ſeventy Tuns at the leaſt, after the Rate of four *Bourdeaux* Hogſheads to every Tun, in meaſuring to be once ſhaken, and then being full, to be ſtrucken off; and then, and there the ſaid Owners, Factors, or Aſſigns, ſhall in Form aforeſaid, deliver the ſaid Salt into the Port of *Dublin* aforeſaid, to be brought in the ſaid Ship unto the ſaid *E. F.* his Factors or Aſſigns, of and from aboard the ſaid Ship, into their Loiter, or Loiters to be brought and laid cloſe aboard the ſaid Ship, the ſaid Salt being freed and cleared of, and from all and all manner of former Charges of what Kind or Sort ſoever.

And the ſaid *E. F.* for himſelf, his Executors, Adminiſtrators, and Aſſigns, doth Covenant and Grant to and with the ſaid *A. B.*

and *C. D.* their Executors, Adminiſtrators, and Aſſigns, by theſe Preſents, that upon notice given unto the ſaid *E. F.* his Executors, Adminiſtrators, or Aſſigns, of the ſaid Arrival of the ſaid Ship in the ſaid Port of *Dublin*, he the ſaid *E. F.* his Executors, Adminiſtrators, Factors or Aſſigns, ſhall and will be ready to take and receive her ſaid Lading of Salt in Manner and Form aforeſaid, with all reaſonable and convenient Expedition. And within ten Days after the Receipt thereof, ſhall at the dwelling Houſe of, *&c.* pay and content, or upon good and true Account, according to the Intent and true Meaning of theſe Preſents, allow to the ſaid Owners, their Factors or Aſſigns, the Sum of Ten Shillings of lawful Monies of *England* for every Hogſhead of the ſaid Salt, to be delivered to the ſaid *E. F.* his Executors, Factors or Aſſigns, as aforeſaid.

And the ſaid *E. F.* in part of Payment for the ſaid Salt hath, at the Enſealing and Delivery of theſe Preſents, before-hand contented and paid, unto the ſaid Factor of the ſaid Ship, One Hundred Pound of lawful Money of *England*, ſo to be reckoned, accounted, and defaulked at the time of the delivery of the ſaid Salt: Which ſaid Sum of One Hundred Pounds, they the ſaid Owners do acknowledge by theſe Preſents: That they have had and received accordingly, and thereof, and of every Part thereof, do clearly acquit and diſcharge the ſaid *E. F.* his Executors, Adminiſtrators, Factors and Aſſigns, and every of them by theſe Preſents, and hereby Covenant and Grant, to and with the ſaid *E. F.* that in caſe the ſaid Ship or Goods ſhould fortune to miſcarry in the ſaid Voyage, that then they will repay back again unto the ſaid *E. F.* his Executors, Adminiſtrators, or Aſſigns, the ſaid Sum of One Hundred Pounds on, *&c.*

A Form of a Bill of Bottomry.

TO all, *&c.* I *A. B.* Owner and Maſter of the good Ship called the *J.* of *London*, of the Burthen of 100 Tuns, or thereabouts, now riding at Anchor on the River of *Thames*, within the Port of *London*, and bound for a Voyage to *St. Malo's* in *France*, and from thence to return back to *London*, to make her Diſcharge, do ſend greeting in our Lord God everlaſting.

And whereas I the ſaid *A. B.* at the ſealing and delivery hereof, am neceſſitated to take up upon the Adventure of the ſaid Ship, the Sum of Fifty Pounds of lawful Money of *England*, for ſetting forth the ſaid Ship to Sea, and for furniſhing of her with Proviſion and Neceſſaries for the ſaid Voyage, which ſaid Sum of Fifty Pound, *C. D.* of *London*, Merchant, hath at my Requeſt

ſup-

ſupplied, and lent unto me, at Ten Pounds, for the ſaid Fifty Pound, during the ſaid Voyage.

Now know ye, that I the ſaid *A. B.* do for me, mine Executors, and Adminiſtrators, covenant, grant, and agree, to and with the ſaid *C. D.* his Executors, and Adminiſtrators, by theſe Preſents, that the ſaid Ship ſhall with the firſt good Wind and Weather that God ſhall ſend after the tenth Day of this preſent Month of *May*, depart from the ſaid Rivers of *Thames*, and ſhall by God's Bleſſing, as Wind and Weather ſhall ſerve, proceed and ſail unto *St. Malo's* in *France*, and having there tarried until, *&c.* and the Opportunity of a Convoy, or being ſooner diſpatched (which ſhall firſt happen) ſhall depart from thence, and ſhall by God's Bleſſing, as Wind and Weather ſhall ſerve, from thence directly ſail, return, and come back to the River of *Thames* to finiſh and end her Voyage.

And I the ſaid *A. B.* do for the Conſideration aforeſaid, bind my ſelf, mine Heirs, Executors, Adminiſtrators, Goods and Chattels, and namely the ſaid Ship with the Freight, Tackle and Apparel of the ſame, to paid unto the ſaid *C. D.* his Executors, Adminiſtrators, or Aſſigns, the Sum of Sixty Pounds of lawful Monies of *England*, within Twenty-one Days next after the return and ſafe Arrival of the ſaid Ship, in the ſaid River of *Thames*, from the ſaid intended Voyage.

And I the ſaid *A. B.* do for me, mine Executors, and Adminiſtrators, covenant and grant, to and with the ſaid *C. D.* his Executors and Adminiſtrators by theſe Preſents, that I the ſaid *A. B.* at the ſealing and executing of theſe Preſents, am true and lawful Owner and Maſter of the ſaid Ship, and have Power and Authority to charge and ingage the ſaid Ship, as aforeſaid, and that the ſaid Ship ſhall at all times after be liable and chargeable for the Payment of the ſaid Sixty Pound, according to the true Intent and Meaning of theſe Preſents.

And finally, it is hereby declared and agreed, that in caſe the ſaid Ship ſhall be loſt, miſcarry or caſt away, which God forbid, before her next Arrival on the ſaid River of *Thames*, from the ſaid intended Voyage, that then the ſaid Payment of the ſaid Sixty Pound, ſhall ceaſe and determine, and the Loſs thereof be wholly born and ſuſtained by the ſaid *C. D.* his Executors and Adminiſtrators; and that then, and from thenceforth, every Matter and Thing herein before contained on the Part and Behalf of the ſaid *A. B.* ſhall determine and be utterly void, any thing herein contained to the contrary thereof in any wiſe notwithſtanding.

And

And for the Conſideration aforeſaid, and for the better performance of all and ſingular the Premiſes, on my Part to be done and performed, according to the true Intent and Meaning of theſe Preſents, I the ſaid *A. B.* have bargained and ſold, and by theſe Preſents do bargain and ſell unto the ſaid *C. D.* his Executors and Adminiſtrators, all the ſaid Ship, and the Tackle, Ammunition, Ordnance, Apparel, and Furniture thereunto belonging.

And the ſaid *A. B.* for himſelf, his Executors, and Adminiſtrators, doth covenant and agree, to and with the ſaid *C. D.* his Executors and Adminiſtrators, by theſe Preſents, that he the ſaid *A. B.* at the time of the ſealing thereof, is the true and lawful Owner of the ſaid Ship and Premiſes, and that the ſame and every Part thereof, now are and be, and ſo in caſe of any default of Payment of the ſaid Sixty Pounds, or any part thereof, contrary to the Agreement aforeſaid, ſhall from henceforth and for ever be free and clear, and freely and clearly diſcharged of, and from all, and all manner of former, and other Bargains, and Sales, Titles, Charges, and Incumbrances whatſoever.

Provided nevertheleſs, and upon Condition, that if the ſaid *A. B.* his Executors or Adminiſtrators, ſhall well and truly pay or cauſe to be paid unto the ſaid *C. D.* his Executors, Adminiſtrators or Aſſigns, the ſaid Sixty Pound and every part thereof, according to the Intent and true Meaning of theſe Preſents, and likewiſe perform the Covenants herein contained, on his and their Part to be done and performed: That then this preſent Bargain and Sale of the ſaid Ship and Premiſes, and every Matter and Thing therein contained, ſhall ceaſe and be void and of none Effect to all Intents and Purpoſes; any thing herein before contained to the contrary thereof, in any wiſe notwithſtanding, *&c.*

Another Form of a Bill of Bottomry, with a Bond thereupon.

TO all, *&c.* I *A. B.* of, *&c.* Mariner, Maſter, and Part-Owner of the good Ship or Veſſel called the *F.* of *London*, of the Burthen of 200 Tuns or thereabouts, now riding at Anchor on the River of *Thames*, within the Port of *London*, do ſend greeting in our Lord God Everlaſting: Whereas the ſaid Ship is now bound out upon a Voyage from the ſaid Port, unto the Iſland of *Barbados*, and from thence if Occaſion ſhall be, to the Iſland of *May*, and ſo to return back again to the ſaid Iſland of *Barbadoes*, and from thence to *London* to end her Voyage.

Now know ye, that I the ſaid *A. B.* for me, mine Executors, and Adminiſtrators, do covenant and grant, to and with *C. D.* of, *&c.* (who before the ſealing, hath paid and delivered unto me the ſaid *A. B.* the Sum of One Hundred Pounds of lawful Money of *England*,

England, and is contented and agreed to ſtand to, and bear the Adventure of the ſaid Sum upon the Body of the ſaid Ship, during the ſaid Voyage) and to and with his Executors, Adminiſtrators and Aſſigns, by theſe Preſents: That the ſaid Ship, with the firſt good Wind and Weather that God ſhall ſend, from and after the twentieth Day of, *&c.* next enſuing the Date hereof, ſhall depart from the ſaid River of *Thames*, upon the ſaid intended Voyage, and that ſhe ſhall by God's Grace (the Perils and Dangers of the Sea, and Reſtraint of Princes and Rulers excepted) be returned unto the River of *Thames* from her ſaid Voyage before the Expiration of Fourteen Months, to be accounted from the Date of theſe Preſents: And that the ſaid Ship, in her ſaid intended Voyage, ſhall not Sail, or apply her ſelf unto any other Ports or Places, than thoſe that are before mentioned herein, unleſs ſhe ſhall be neceſſitated thereunto, by Extremity of Weather, or ſome other unavoidable Accident.

That I the ſaid *A. B.* mine Executors, Adminiſtrators, or Aſſigns, ſhall and will well and truly pay or cauſe to be paid unto the ſaid *C. D.* his Executors, Adminiſtrators, or Aſſigns at, *&c.* and the Sum of One Hundred and thirty Pounds of lawful Money of *England*, in reſpect of the Adventure aforeſaid, if the ſaid Ship ſhall go from thence only unto the Iſland of *Barbadoes*, and from thence return to *London*, to end her ſaid intended Voyage, and the Sum of One Hundred and Forty Pounds of like Monies, if the ſaid Ship ſhall go from hence unto the Iſland of *Barbadoes*, and from thence to the Iſland of *May*, and ſo return again to the Iſland of *Barbadoes*, and from thence to *London*, to end her Voyage. And that within one Month after the return of the Hull or Body of the ſaid Ship, unto the River of *Thames* from the ſaid Voyage.

Provided always, nevertheleſs, and it is the true Intent and Meaning of theſe Preſents, and of all the Parties hereunto, that if the ſaid Ship in her preſent intended Voyage, ſhall happen to be loſt, miſcarry, or be taken by Men of War or Pyrates, which God forbid, that then this preſent Writing or Deed, and every Covenant, Payment, Matter, and Thing therein contained on the Part and Behalf of the ſaid *A. B.* to be done, paid, and perform'd, ſhall be utterly void, and of none Effect. And that then I the ſaid *A. B.* my Executors, or Adminiſtrators, ſhall not be any ways chargeable or liable to pay the ſaid ſeveral Sums before mentioned, or either of them, or any Part of them to the ſaid *C. D.* his Executors, Adminiſtrators, or Aſſigns, but that he and they are to loſe the ſame, and every Part thereof. Any thing herein contained to the contrary hereof in any wiſe nothwithſtanding.

And

And it is agreed by and between the ſaid Parties to theſe Preſents, that in caſe the ſaid Ship ſhall not be returned unto the ſaid River of *Thames* from the ſaid intended Voyage, at the end of the Fourteen Months, to be accounted from the Date of theſe Preſents; and that at the end of the ſaid Fourteen Months, there ſhall not be a juſt Proof made of the Loſs, happening within the time aforeſaid: That then I the ſaid *A. B.* mine Executors, Adminiſtrators, or Aſſigns, ſhall and will within twenty Days, next after the end and expiration of the ſaid Fourteen Months, well and truly pay or cauſe to be paid unto the ſaid *C. D.* his Executors, Adminiſtrators, or Aſſigns, at the Place of Payment aforeſaid, the ſaid Sum of One hundred and thirty Pounds, in caſe the ſaid Ship ſhall go unto the Iſland of *Barbadoes*, as aforeſaid, and the ſaid Sum of 140 Pounds in caſe the ſaid ſhall go unto the ſaid Iſland of *May*, as aforeſaid; and that the ſaid *C. D.* ſhall not run the Hazard and Adventure of the ſaid Sum by him adventured, as aforeſaid, upon the Body of the ſaid Ship, any longer than Fourteen Months, to be reckoned and accounted as aforeſaid.

The Condition of a Bond upon the ſame.

THE Condition of this Obligation is ſuch, that if the above bounden *A. B.* his Executors, Adminiſtrators, or Aſſigns, ſhall and do well and truly obſerve, perform, pay, fulfil and keep all and every the Covenants, Grants, Articles, Payments, and Agreements, and all things which on his or their Parts and Behalfs are or ought to be obſerved, performed, paid, fulfilled and kept, mentioned and contained in a certain Writing, or Bill of Bottomry, or Adventure, of the Date above written, made by, and from the ſaid *A. B.* of *&c.* Maſter and Part-Owner of the good Ship called the *F.* of *London*, of the Burthen of 200 Tuns or thereabouts, now riding at Anchor in the River of *Thames*, unto the above-named *C. D.* in and by all things, according to the Chriſtian Purport and true Meaning of the ſaid Writing or Bill of Bottomry, or Adventure, that then, *&c.*

Or there may be a Sale of the Ship, by a collateral Deed, for a better Security, with this following Proviſo in it.

Provided always nevertheleſs, that if I the ſaid *A. B.* mine Executors, and Adminiſtrators, ſhall and do well and truly obſerve, perform, pay, fulfil and keep all and every the Covenants, Grants, Articles, Payments, Agreements and other things, which on our or any of our Parts, are or ought to be obſerved, performed, paid, fulfilled and kept, mentioned and contained in a certain Writing or Bill of Adventure, of the Date of theſe Preſents, made by me the

the ſaid *A. B.* unto the ſaid *C. D.* That is to ſay, in and by all things, according to the Tenor and true Meaning of the ſaid Writing or Bill of Adventure: That then and from thenceforth this preſent Writing, and the Grant, Bargain and Sale hereby made of the Premiſſes, and every Covenant, Matter, and Thing herein contained, ſhall be utterly void, and of none Effect. Any thing herein before contained to the contrary hereof in any wiſe notwithſtanding. *In Witneſs whereof*, &c.

Another for Money in a Voyage to the Eaſt-Indies.

TO all, *&c.* I. *A. B.* of *London*, *&c.* do ſend greeting. Whereas I the ſaid *A. B.* do intend by God's Grace to make a Voyage unto the *Eaſt-Indies* in the good Ship called the *Pearl* of *London*, being now thither bound, whereof is Maſter under God *C. D.* and whereas *E. F.* of, *&c.* the Day of the Date of theſe Preſents hath paid and delivered unto me the ſaid *A. B.* the Sum of Fifty Pound of lawful Monies of *England*, whereof I do hereby acknowledge the Receipt, the Adventure of which ſaid Fifty Pound, the ſaid *E. F.* is content and agreed to bear and ſtand to, out and home.

Now know ye that I the ſaid *A. B.* do covenant and grant, for me, mine Executors, and Adminiſtrators, and Aſſigns, by theſe Preſents, that I the ſaid *A. B.* my Executors, Adminiſtrators or Aſſigns, ſhall and will diſpoſe, convert, and imploy, the ſaid Fifty Pound to and for the beſt Advantage of the ſaid *E. F.* his Executors, Adminiſtrators or Aſſigns, according to the beſt of my Skill and Knowledge in the ſaid Voyage.

And alſo that I the ſaid *A. B.* mine Executors, Adminiſtrators or Aſſigns, within thirty Days after my return from the ſaid Voyage, or the Arrival and Diſcharge of the ſaid Ship, within the Port of *London*, which ſhall firſt happen, ſhall not only give and deliver unto the ſaid *E. F.* his Executors, Adminiſtrators, or Aſſigns, a juſt and true Account of the Diſpoſition and Management of the ſaid Adventure, but alſo truly pay and deliver, or cauſe to be paid and delivered unto the ſaid *E. F.* his Executors, Adminiſtrators, or Aſſigns, all ſuch Money, and proceed as by the Foot of the ſaid Account, ſhall appear to be due and coming to him the ſaid *A. B.* his Executors, Adminiſtrators or Aſſigns. *In Witneſs*, &c.

A Bill of Adventure for a Bale of Cloath.

TO all, *&c.* I *A. B.* of *London*, Merchant, do ſend greeting: Whereas I the ſaid *A. B.* did about two Months ſince conſign to *C. D.* Merchant in *Leghorn* in *Italy*, three Bales of *Suffolk*

Cloath of the Number 1, 2, 3. which Bales were all laid on Board the Ship called *the Royal Exchange* of *London*, of the Burthen of 300 Tuns or thereabouts, whereof *W. T.* is Maſter under God, for the Account of me the ſaid *A. B.*

Now know ye, That I the ſaid *A. B.* do hereby confeſs, acknowledge and declare, that one of the ſaid Bales of Cloath, that is to ſay, that which is marked with the Figure 3, doth properly belong unto *E. F.* of, *&c.* the Adventure whereof, the ſaid *E. F.* is to bear, out and Home.

And I the ſaid *A. B.* do hereby for me, mine Executors, and Adminiſtrators, covenant and grant to and with the ſaid *E. F.* his Executors, Adminiſtrators and Aſſigns, not only to make and give to him, them or any of them, a true and juſt Account of the Sale and Proceed of the ſaid Bale of Cloath, Number 3, but alſo to pay to him or them, all ſuch Money, Goods and Benefits, as by the Foot of any ſuch Account, ſhall appear to be due and coming unto him or them, for or in reſpect of the ſaid Bale of Cloath.

An Aſſurance of Goods outward-bound.

IN *the Name of God, Amen.* Be it known to all Men by theſe Preſents, that I *A. B.* of *London*, Gentleman, do by theſe Preſents aſſure unto *C. D.* and *E. F.* the Sum of Three hundred and fifty Pound Sterling, being the full Price and Value of Goods for and on the Behalf of the ſaid *C. D.* and *E. F.* laden and to be laden Aboard the good Ship called the *Elizabeth* of *London*, of the Burthen of One hundred Tuns, or thereabouts, or the Maſter of the ſaid Ship being now *T. B.* or whoſoever elſe ſhall go as Maſter of the ſaid Ship, and out of the Port of *London*, unto the Iſland of, *&c.* in the Parts beyond the Seas; then the ſaid Ship to be arrived, and the Goods diſcharged and laid on Land in good Safety; and that this preſent Writing of Aſſurance, ſhall be of as good Force and Strength to all Intents and Purpoſes, as if I the ſaid *A. B.* had been bound by Policy of Aſſurance, either ordinary or extraordinary, made in the Office of Aſſurance in the Royal Exchange, *London.*

And I do hereby acknowledge my ſelf fully ſatisfied and paid for this Aſſurance by the Hands of the ſaid *C. D.* after the Rate of Five Pound Sterling *per Cent.* And therefore I the ſaid *A. B.* do bind my ſelf, mine Executors, and Adminiſtrators, firmly by theſe Preſents, that if by any Misfortune, which God forbid, the Goods and Merchandizes aforeſaid, ſo laden or to be laden, outward-bound in the ſaid Ship, ſhould periſh in the ſaid Voyage, in Part or in all, to pay or cauſe to be paid unto the ſaid *C. D.* and

E. F.

E. F. their Executors, Adminiſtrators, or Aſſigns, the full Sum of 350 *l.* of lawful Money of *England*, ſo much thereof as ſhall be proved to be loſt of the ſaid Goods, within the Space of Six Months, after Notice given and Proof made of the ſaid Loſs.

In Witneſs, &c.

Now as to the Point of Salutations, having in the latter End of the 4th Title of Article II. inſerted a ſhort Diſcourſe of the Ceremonial of the Salutations uſual at the Port of *Leghorn* in the *Mediterranean*, I would there have added what I intended to ſay concerning the *Punctilio* of Salutations between our own Men of War and Merchant Ships, and alſo between Ships and Forts or Caſtles in general, if it had then been ready to put to the Preſs.

And having ſince that time read and conſidered what is ſaid upon that Subject by the Author of the above-mentioned Treatiſe, *de jure Maritimo & Navali*, I have made ſuch Alterations and Additions as ſeemed neceſſary or convenient, for the Inſtruction and Satisfaction of the Reader, in the following manner.

In the firſt place, as to the Marks of Homage due to the Queen of *Great Britain*'s Flag in her own Seas, it may not only be exacted of Foreigners, but of natural born Subjects, and ſuch of them as refuſe to pay the ſame, if it can be done without the Loſs of the Voyage, may be brought to the Flag to anſwer that Contempt, and may be by him detained till they pay the Charge of the Shot, that their Negligence or Obſtinacy occaſioned, after which the Name of the Ship and Maſter, together with that of his Place of Reſidence, and of the Port to which he is bound, being returned to the Admiral, he may be indicted, and ſeverely puniſhed for his Offence.

And if any of the Queen of *England*'s Ships of War ſhall enter into any Harbour of any Foreign Prince or State, or into the Road within Shot of Cannon of ſome Fort or Caſtle, ſuch Marks of Reſpect muſt be paid as are uſually there expected, and then the Commander is to ſend aſhore to inform himſelf what Return they will make to his Salute, and if he receives good Aſſurance that her Majeſty's Ships ſhall be anſwered Gun for Gun, the Port is to be ſaluted as is uſual, but without Aſſurance of being anſwered by an equal Number of Guns, the Port is not to be ſaluted; and yet in that very reſpect, before the Port is to be ſaluted, the Captain ought to inform himſelf how Flags (of the ſame Quality with that he carries) of other Princes have been ſaluted there, the which is peremptorily to be inſiſted on, to be ſaluted with as great Reſpect and Advantage as any Flag (of the ſame Quality with the Captain) of any other Prince

hath been ſaluted in that Place, in which Caſe Regard muſt likewiſe be had to the Treaties a-foot, if any be.

A Captain of a Ship of the Second Rate, being neither Admiral, Vice Admiral, nor Rear Admiral, at his firſt coming and ſaluting his Admiral, or Commander in chief, is to give Eleven Pieces, his Vice Admiral Nine, and his Rear Admiral Seven, and the other proportionably, leſs by two, according to their Ranks; but the Commander or Captain of a Ship is not to ſalute his Admiral or Commander in chief after he hath done it once, except he hath been abſent from the Flag Two Months.

When a Ship of the Second Rate ſhall carry any Ambaſſador, Duke, or Nobleman, at his coming aboard he is to give Eleven Guns, and at his landing Fifteen; and when he ſhall carry a Knight, Lady, or Gentleman of Quality, at their coming aboard he is to give Seven, and at the landing Eleven; and the other Ships are to give leſs by two, according to their Ranks and Number of Ordnance.

When an Admiral of any foreign Nation is met with, he is to be anſwered with the like Number by all the Ships he ſhall ſalute; if a Vice Admiral, the Admiral is to anſwer him with Twelve leſs, but the Vice Admiral and the Rear Admiral, and as many of the reſt as he ſhall ſalute, ſhall give him the like Number; if a Rear Admiral, then the Admiral and Vice Admiral to anſwer him with Two leſs; but if he ſhall ſalute the Rear Admiral, or any other, they are to anſwer him in the like Number.

When a Man of War or Merchant Man of another Nation, or of our own, ſalutes any of the Queen's Ships, he is to be anſwered by Two.

When any of the Captains of her Majeſty's Ships ſhall have occaſion to ſalute any of the Queen's Caſtles, he is to give two Guns leſs than they are directed to give upon ſaluting their Admiral, or Commander in chief, as aforeſaid; but this is only in Time of Peace, for if War is begun, no Guns ought to be fired in Salutes, unleſs to the Ships or Caſtles of ſome foreign Prince or State in Amity.

Thoſe Duties or Obligations being laid on Commanders, conſiſt in two Parts, the one is that ancient Preſcription which the Crown of *England* claims by virtue of the Sovereignty of that Empire, the other is that Reſpect which is paid as a viſible Mark of Honour and Eſteem, either to Kingdoms or Perſons, to whom ſuch Signs of Defetence are to be paid.

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APPENDIX,

CONTAINING

An ACCOUNT

OF THE

Preſent State *and* Regulations

OF THE

ADMIRALTY *and* NAVY *of* ENGLAND;

WITH

Several DISCOURSES *concerning the* MANAGEMENT *of it, with relation both to the* QUEEN, *the Officers, and the Mariners.*

NO Body that underſtands the Intereſt and State of *England* will pretend to deny that the *Engliſh* Navy is the Strength and Glory of the Nation, and if that be true, it neceſſarily follows that the Improvement of Shipping and Navigation ought to be the principal Care of all who are concerned for the Kingdom's Welfare, ſince upon that depends the flouriſhing State of the Navy.

I ſhall have occaſion elſewhere to ſpeak of the Improvement of Shipping and Navigation in general, which will come in more naturally

turally in the above-mentioned Book of Commerce, where I hope to evince beyond all Exception that a flouriſhing Trade is the only Means to ſupport a powerful Navy; but as the latter is the proper Subject of this Treatiſe, I ſhall here conſider the preſent State of her Majeſty's Royal Fleet.

With regard to the Government of it in general.

With regard to the Officers, both General and Inferior, and to the Encouragements that have been, or are given them in actual Service, or out of it.

With regard to the Mariners in all their Circumſtances, and particularly as to their Proviſions and Pay while in the Service, and as to the Settlement that reaſonably ought to be made for them afterwards.

In treating of all which it will be convenient to proceed methodically, according to the Date of the reſpective Eſtabliſhments that have been made for that Effect.

And in ſpeaking to all theſe Points I ſhall take notice of the Inconveniences with which our preſent way of Management is attended, and with all due Submiſſion offer my beſt digeſted Thoughts concerning the moſt effectual Means for remedying whatever ſeems to be amiſs.

I own the Subject to be deep and intricate, and am not inſenſible that it may require a greater Fund of Policy and Penetration than I can pretend to be Maſter of to put the Marine Affairs of *England* in the Poſture in which I ſhould be very glad to ſee them; but conſidering that at leaſt my Thoughts upon the Matter could not do any Injury either to the Government or private Perſons, and conſequently could not be offenſive to either, I adventur'd to expoſe them to the Publick View, and only wiſh, that ſuch as don't approve of any of my Propoſals, may pleaſe to oblige the World with better.

I hope I have not ſaid, I'm ſure I have not intended, any thing offenſive to any Perſon whatſoever; and if I have ingenuouſly expoſed ſuch things as I wiſh might be rectified, I have not (ſo much as in my Thoughts) imputed the Misfortune to any particular Man alive, and therefore have reaſon to believe that no Body will think I deſigned them any Prejudice in propoſing a Rectification of Miſtakes, too ancient to be laid at any Body's Door that's now in Being, and ſuch for the moſt part are the Grievances, of which I humbly ſollicit the Redreſs, without any other Intereſt but that of advancing the common Good.

I ſhall ſtate the whole Matter of Fact with all imaginable Candor and Impartiality, and ſhall be as induſtrious in expoſing the Advantages, as moderate in ſpeaking of the Diſcouragements, to be met with in her Majeſty's Service Before

BEfore the Reign of King *Henry* VII'. and ſince the *Norman* Conqueſt, there was not any fix'd and conſtant Navy Royal in *England*, for anciently the Ports and Maritime Towns of the Kingdom fitted out upon proper Summons their Quota of Ships of War for the Publick Service, and meeting at a certain Rendezvous put themſelves under the Conduct of the King or his Admiral; but this Prince having a very conſiderable Treaſure left him by his Father, and a fit Opportunity to improve the Marine Affairs of *England*, employ'd great Sums of Money in building Ships of War, and erecting Yards and Magazines, over which he eſtabliſh'd Commiſſioners of the Navy, to whom he committed the Management of thoſe Ships, with their Stores and Furniture; and tho' this Prince, who was a Lover of Magnificence and Splendor, gave the Command of his Ships of War to ſome of his greateſt Favourites, and theſe of the higheſt Quality, and ſometimes went to Sea in Perſon, we don't ſee that he ever form'd any Regulations for Manning and Diſciplining his Navy, and providing Officers for it, becauſe he ſeems only to have had an Eye to the Expeditions he at any time undertook himſelf, and thence do probably ariſe the innumerable Difficulties that are now a-days met with in procuring Seamen for the Fleet, which that Prince's Succeſſors have not thought fit, or have not hitherto been able to obviate.

In the Days of Queen *Elizabeth* the *Engliſh* made yet a more conſiderable Figure at Sea than before, for being engag'd in a long War with *Spain*, which was then powerful upon that Element, they lay under an indiſpenſable Neceſſity of exerting themſelves to the utmoſt of their Strength that way, and yet in her Time ſeveral of her Subjects were allowed to equip Ships, and engage the Enemy in Conjunction with thoſe of her Majeſty; however that glorious Princeſs gave all ſuitable Encouragement to the Sea Officers of Note, ſuch as the famous *Rawleigh*, *Drake*, and others, for whom She had a peculiar Regard, and to whom She gave ſeveral Marks of her Royal Favour, ſetling very conſiderable Allowances upon them, if regard be had to the Value of Land, and all other Things in thoſe Days.

But King *James* I. being a peaceable Monarch the Navy was but little improv'd in his Time, and few of the Nobility adhering to the rebellious Party, in whoſe Hands the Government fell in his Son's Time, the Command of the Ships of War was given to Men of mean Extraction, and without any other Recommendation but that of their Skill and Experience in Naval Affairs, whereas formerly the Captains and Lieutenants having been Men of Quality and Eſtate, who only valu'd their Employments for the Honour of the Command, they chiefly concern'd themſelves in the Military Part, leaving the whole Care of navigating the Ships of War to the Maſters.

But

But King *Charles* II. at his Reſtoration finding it otherwiſe, and endeavouring to re-eſtabliſh the Nobility and Gentry in the Command of the Navy, made his Brother the Duke of *York* Lord High Admiral of *England*, and he in Perſon heading the Fleet, there went with him many Voluntiers of Quality; and the King having given to underſtand that ſuch as expected Preferment in the Fleet ſhould be compleat Seamen, for the Encouragement of ſuch of the Nobility and Gentry as ſhould ſend their Sons to Sea, eſtabliſh'd the Order of *Reformades*, to whom he gave his Letters, with an Allowance for Table Money, and for ſhewing others an Example, ſent one of his own Sons to be bred up a Sailor, and in every thing did very much countenance his Sea Officers, allowing them free Acceſs to his Preſence, which procur'd them an univerſal Reſpect at Court, and prompted Men of the greateſt Quality and Eſtates to ſend their Sons to Sea, for the better qualifying them for obtaining Commands in the Fleet; and as the King had a peculiar Genius for Naval Architecture himſelf, he mightily encourag'd it in others, going frequently to the Dock Yards, and to viſit his Magazines, and give Directions concerning Ships upon the Stocks, and now and then Knighting ſome of his moſt eminent Builders.

And as in his Reign the Pay of the Sea Captains was very ſmall, he made up that Diſadvantage other ways, by indulging them in many things that are not ſuffered now, ſuch as plundring Prizes, taking Convoy Monies, carrying Merchants Goods, Plate, Jewels, and Paſſengers, by which many of 'em made their Fortunes, as well as by other Means put in Practice in his Time, by which his Captains made no inconſiderable Advantages, ſuch were the Shares they had in their Purſer's Gains, which then were prodigious, by means of the Benefit they made of the Proviſions of Men who had Leave to go aſhore, by keeping Mens Names upon the Books long after they were Dead, Run, or Diſcharged, by buying the Crews Short-Allowance Money at half the Value, giving the Men *Beverage* for good Wine in Foreign Voyages, making out Tickets for Men Dead and Run, giving the Men, or their Attornies, or Executors, ſome ſmall Conſideration, and receiving their full Pay; and tho' there were in that Prince's Service ſeveral Captains of too great Souls and Fortunes to uſe ſuch Methods to ſupport themſelves, others look'd upon them as the neceſſary Perquiſites of their Poſts, and thus they ſtill continued, till little by little moſt of theſe Abuſes have been in a great meaſure ſuppreſſed.

And for the better Support of the Sea Captains while on Shore, King *Charles* beſtow'd upon many of them Places about his Perſon, made ſome Governors of Forts and Caſtles, others he made Commiſſioners of the Navy, and many of them were Officers in his Guards and Army.

After

After which King *James* II. coming to the Crown, and perceiving that the Sea Captains had but ſmall Encouragement by their Wages, and endeavouring to ſecure them in his Intereſt, he thought fit for the better enabling them to ſupport the Dignity of their Employments, to augment their Pay by an additional Gratification he beſtow'd upon them, by the Name of *Table Monies*.

And tho' he promis'd further Encouragement to them, beſides what was provided by that Eſtabliſhment, he made no Proviſion for their Subſiſtence aſhore, nor any Addition to the Pay of their Lieutenants, which was but very ſmall.

In the Preamble to that Eſtabliſhment it is ſet forth, that his Majeſty having made enquiry into the State of his Royal Navy, and diſcovered that the publick Service of his Ships was diverted to private Uſes, which proceeded from the Abuſe of the Liberty formerly indulg'd to the Captains to carry Jewels, Plate and Bullion, *&c.* (And then it goes on to the Particulars) His Majeſty's Pleaſure is,

I. That the ſaid Carriage be entirely reſtrained, except where a Warrant is granted under his own Hand; under pain of being caſhier'd, of forfeiting Profits made, and further arbitrary Puniſhment.

II. That no Paſſengers be carried by Men of War except Slaves redeem'd, Shipwrackt Perſons, or his Majeſty's Subjects taken out of foreign Ships, under the like Penalties.

III. That Copies of all ſailing Orders iſſu'd or receiv'd at Sea, be tranſmitted to the Secretary of the Admiralty.

IV. And likewiſe Advices of the Arrival of the King's Ships in foreign Ports, and Abſtracts of their Journals.

V. That at the End of each Voyage the Journals and Entry-Books of Orders, be likewiſe tranſmitted to the Secretary of the Admiralty; and that theſe Regulations be punctually obſerv'd, in Conſideration of all which, and for their greater Encouragement, his Majeſty granted the Commanders the following Annual Allowance of *Table Monies*, without leſſening the Allowance eſtabliſh'd to Flags.

A Table of the Annual Allowance of a Commander of each Rate.

Rate	Preſent Wages.			Preſent Victualling.			Additional Allowance for his Table		
	L.	s.	d.	L.	s.	d.	L.	s.	d.
1	273	15	0	12	3	4	250	0	0
2	219	00	0	12	3	4	200	0	0
3	182	00	0	12	3	4	266	5	0
4	136	10	0	12	3	4	124	5	0
5	109	10	0	12	3	4	100	0	0
6	91	00	0	12	3	4	83	0	0

Over and above this additional Allowance, that Prince was likewiſe pleas'd to grant to his Sea Commanders, their Officers and Companies, the whole Value of the Prizes taken of the People of *Barbary*, with promiſe of further Marks of his Bounty, upon any ſignal Inſtance of their Merit in his Service, and the exact Obſervations of the Naval Diſcipline.

And tho' nothing of this extraordinary Gratification of *Table-Money*, granted by K. *James*, was ever paid, and that Eſtabliſhment fail'd with his Abdication, the Sea Commanders ſtill expected either that or ſome other Gratification in lieu of it, and it was believ'd it wou'd be ſet a-foot again in the Reign of K. *William*, eſpecially ſince that Prince did not prefer his Sea Commanders to any other Poſts but their Commiſſions at Sea, and did likewiſe very juſtly reſtrain them from all indirect Ways of enriching themſelves to his or his Subjects or Mariners Prejudice, for which Purpoſe more Reſtrictions were iſſu'd out by him than by all his Predeceſſors.

In Conſideration of all which, his aforeſaid Majeſty K. *William* reſolving to keep the Sea Commanders to a ſtrict Diſcipline, and deſiring to make them ſome other Gratification in lieu of the Allowance of *Table-Monies* granted by K. *James*, ordered the Commiſſioners of the Admiralty to conſider the proper Methods for effecting his Deſign; and they having deliver'd to the King their Opinion upon the Matter, his Majeſty for avoiding the Inconveniences ariſing from the ſmallneſs of the Pay allow'd to the Sea Commanders, and in Conſideration that the *Engliſh* Pay was then leſs than that of our Neighbours, *&c.* was pleaſs'd to make the following Eſtabliſhment in a Council held at *Whitehall* the 22d of *February* 1693. where were preſent

The Lord Arch-Biſhop of *Canterbury*.	Viſcount *Sydney*.
Lord Keeper.	Viſcount *Falkland*.
Lord Preſident.	Lord Bp. of *London*.
Lord Privy-Seal.	Lord *Cornwallis*
Duke of *Hamilton*.	Lord *Godolphin*.
Lord Steward.	Sir Robert *Howard*.
Lord Chamberlain.	Mr Secretary *Trenchard*.
Earl of *Bridgwater*.	Mr Chancellor of the Exchequer.
Earl of *Scarbrough*.	Mr *Ruſſel*.
Viſcount *Newport*.	Mr *Boſcawen*.

1. That the Sea Pay of the Flag-Officers, Commanders, Lieutenants, Maſters and Surgeons of his Majeſty's Ships ſhou'd be doubled.

2. That all Flag Officers, and Captains of the 1*ſt*, 2*d*, 3*d*, 4*th*, and 5*th* Rates, and of Fire Ships; and the firſt Lieutenant and Maſters of

of Firſt, Second, and Third Rates, who have ſerved a Year in the ſame Poſts in Ships of thoſe Rates, or been in a general Engagement, ſhould have half Pay while on Shore, to be paid Quarterly out of the general Eſtimate of the Navy.

3. That only ſuch Commiſſion Officers as have been put in by the Admiral or Admiralty, and Warrant Officers as have been put in by the Navy Board, ſhould receive the Benefit of half Pay.

4. That the ſame ſhould commence from the Second of *January* then laſt paſt.

5. That no Officer who leaves the Service, or is diſmiſs'd for any Miſdemeanour, enjoy that Benefit.

6. That the Number of Servants allow'd the Commanders ſhould be no more than

Ten to the Admiral of the whole Fleet, all other inferior Flags One each, Captains of Firſt and Second Rates Six, of Third and Fourth Rates Five, of Fifth and Sixth Rates Four each.

And that the Number of Servants leſſen'd be deducted out of every Ships Company.

7. That half Pay Officers be aſſiſting to the Navy Board.

8. That no Convoy Money be demanded or received, under the Penalty of forfeiting Wages, and loſing Employment for ever.

9. That the Commanders tranſmit to the Admiralty an Account when and why they come into Port.

10. That the Commiſſioners of the Navy at the Ports enquire why Ships come in; and that all theſe Articles and Rules be ſtrictly obſerved.

But the Fund for that Eſtabliſhment, which laſted about Six Years, to the general Satisfaction of all the Officers, ending with the War, and the King having no other Means to afford it, except he had allowed it out of his Revenue, the then Lords of the Admiralty form'd another Scheme, by which they reduc'd the Sum from 40 to about 18000 *l.* a Year for the half Pay, to be allowed only to a certain Number of Officers, retrenching their Sea Pay almoſt a Third in the whole, and a full Third from the Captains; which Eſtabliſhment, without the King's concerning himſelf therein, had all imaginable Countenance from the Houſe of Commons, becauſe in Peace they were to give but 18000 *l. per Ann.* and in War the Pay retrench'd from the Sea Officers in Commiſſion, without further Charge to the Nation, would be much more than to anſwer the Number of thoſe to be provided for aſhore, if any ſhould happen ſo to be; for the 30 *s. per* Man a Month Wages holding out to pay the Sea Officers at the double Pay, whereby the Ships of each Rate took up at the middle Complement leſs than 30 *s. per* Month, which is the Sum allow'd by Parliament, the Surplus there-

fore, over and above what is retrench'd from the Sea Officers, anſwers the Pay and Table Monies of the Admirals and Flag Officers, the extraordinary Allowance of Commanders in chief of Squadrons wearing the broad Pendant, the contingent Expences of Flags and Captains preſiding at Courts-Martial, as alſo their Travelling Charges, Allowances for Pens, Ink, and Paper, with other Neceſſaries, for their publick Letters, Journals and Accounts (according to the ancient Uſage of all Publick Offices, as well as the Navy) and whatever elſe may be rang'd under the Head of Wages, exempt from the other Three of Victualling, Wear and Tear, and Ordnance Stores, for which alſo and their Contingences the Parliament grants diſtinct Sums of Money.

And this Eſtabliſhment, in purſuance of a Vote of the Houſe of Commons, deſiring his Majeſty to take it into his Conſideration, having been laid before the King in Council at *Kenſington* the 18th Day of *April* 1700, his Majeſty approved the ſame, and therefore I have thought fit to make the following Abridgment of it as under, *viz.*

That the whole double Pay then allowed to the Officers of the Fleet ſhould be retrench'd, according to the following Table, by which it will appear that near one Third thereof is taken away.

The

The whole Pay.	*now allow'd.*			*propos'd.*		
	l.	*s.*	*d.*	*l.*	*s.*	*d.*
To the Admiral of the Fleet	6	00	00	5	00	00
White	4	00	00	3	10	00
Blue	4	00	00	3	10	00
Vice Admirals	3	00	00	2	10	00
Rear Admirals	2	00	00	1	15	00
Captain to the Admiral of the Fleet	2	00	00	1	15	00
Captains of the First Rates	1	10	00	1	00	00
Second	1	4	00	0	16	00
Third	1	00	00	0	13	06
Fourth	0	15	00	0	10	00
Fifth	0	12	00	0	8	00
Sixth	0	10	00	0	6	00
Lieutenants of First Rates	0	6	00	0	5	00
Second	0	6	00	0	5	00
Third	0	5	00	0	4	00
Fourth	0	5	00	0	4	00
Fifth	0	5	00	0	4	00
Sixth	0	5	00	0	4	00
	per Menſ.			*per Menſ.*		
	l.	*s.*	*d.*	*l.*	*s.*	*d.*
Maſters of First Rates	14	0	00	9	02	00
Second	12	12	00	8	08	00
Third	9	7	04	6	06	00
Fourth	8	12	04	5	12	00
Fifth	7	15	00	5	02	08
Sixth	6	12	00	4	13	04
Surgeons to have their preſent Allowance of Sea Pay.						

That over and above the Eſtabliſhment of Men to each Ship, there be allowed as Servants to the Flag Officers as under, *viz.*

To the { Admiral — 50 / Admirals of White and Blue — 30 / Vice Admirals — 20 / Rear Admirals — 15 } Men for their Flags

To an Admiral Jack Flag, and to Vice and Rear Admirals wearing that Flag, the ſame Number as to thoſe of Squadrons.

That 4 Men of each 100 of the Ships Company be allowed to Captains as their Servants.

That

That all Voluntiers and Midſhip-men extraordinary, and their Servants, be Supernumeraries.

That a competent Number of Sea Officers be always ſupported aſhore, ready for the Service, *viz.*

One Admiral of the Fleet at 2 *l.* 10 *s.* a Day.

One Admiral of the White, and another of the Blue, at 1 *l.* 15 *s.* a Day each.

Three Vice Admirals at 1 *l.* 5 *s.* a Day each.

Three Rear Admirals, and the Captain to the Admiral, at 17 *s.* 6 *d.* a Day.

Fifty Captains who have ſerv'd the laſt War, according to their Seniority, 20 of which at 10, and 30 at 8 *s.* a Day.

One Hundred Lieutenants, as above, Forty at 2 *s.* 6 *d.* and Sixty at 2 *s.* a Day.

Thirty Maſters, as above, 15 at 2 *s.* 6 *d.* and 15 at 2 *s.* a Day.

At which Rate the whole Charge will only amount to 18113 *l. per Annum.*

That Sum to be plac'd on the ordinary Eſtimate of the Navy, and to commence the Firſt of *January* $1\frac{6}{7}\frac{9}{0}\frac{2}{0}$.

Only ſuch Officers as have been put in by the Admiralty or Navy Board to enjoy that Benefit.

None to be entitled to it who have left the Service without Permiſſion, or been diſmiſs'd for any Miſdemeanor.

No Officer in the Merchants Service, or other Publick Employment, to enjoy that Benefit.

But to be ready at all times on a Call.

Flag Officers and Captains to aſſiſt at fitting out Ships.

This Number to be always ſupplied by the next in order, upon the Death or Removal of any Officer.——

Having thus given the Reader a ſufficient Account of theſe Three Eſtabliſhments, of the Pay of the Sea Officers in general, I ſhall now ſay ſomething of the particular Encouragement, propoſed in the ſailing Inſtructions iſſued out by Sir *George Rook* in the Year 1703 to Captains and Companies of Fire-Ships, ſmall Frigats and Ketches in her Majeſty's Service, it being neceſſary to take notice of all the Advantages as well as Inconveniences that are to be met with in the Service, in order to the impartial ſtating of the Caſe of thoſe that are employ'd in it.

The Encouragement propoſed in ſuch Caſes is to this effect, *&c.*

That if any of the Enemies Men of War of 40 Guns or upwards be deſtroyed by any of her Majeſty's Fireſhips, the Captain ſhall receive a Reward of 100 *l.* or a Medal and Chain of Gold of that Value, as he ſhall make Choice, and every other Perſon on board the

Ship, ſhall receive the Sum of ten Pounds as a Reward, which ſhall alſo be paid to the Executors or neareſt Heirs, of ſuch as ſhall happen to be kill'd, and if one of the Enemy's Flag Ships be deſtroy'd, the Reward ſhall be double, and all ſhall be preferr'd.

That if any of Her Majeſty's Frigats, Ketches, Smacks, Hoys, or Boats, ſhall board or deſtroy, any of the Enemies Fire-Ships, and prevent them from going aboard any of the Queen's Ships, above the fifth Rate, the Officers and all other Perſons eminently inſtrumental in that Service, ſhall be preferr'd, and every Perſon in the aforeſaid Veſſels or Boats, ſhall receive a Reward of 40 *s.* which ſhall likewiſe be paid to the Heirs or Executors of ſuch as are kill'd. And if the aforeſaid Boats or Veſſels be loſt in the Attempt, the full Value thereof ſhall be paid to the Owners, by the Treaſurer of Her Majeſty's Navy, and the Men ſhall be rewarded; and the Crews of ſuch of the Boats of the Fleet, as ſhall prevent any Injury to be done by the Enemy's Fire-Ships, to Her Majeſty's Ships, ſhall receive all ſuitable Encouragement, according as the matter ſhall be repreſented by the Captain of the Ship, which they may happen ſo to preſerve.

As to the Sailing Orders, iſſu'd out at the ſame time by Admiral *Rook*, beſides that they are too long to be inſerted here at large, and of ſuch a Nature, as does not eaſily admit of being abridg'd; being only an Account of the Signals, by which the Motions of the Fleet are to be directed in Sailing and Fighting; I don't ſee what great benefit either a Merchant or a Maſter of a Merchant Ship can reap by the Knowledge of them. And as for the Officers of Her Majeſty's Navy, they have always Copies of ſuch Orders and Inſtructions deliver'd to them at the Admiralty; ſo that it would be ſuperfluous to give any Account of 'em here; and ſo much the more, that they have not any Regard to the State of the Mariners; which I am about to conſider.

As to the Government of Her Majeſty's Ships I ſhall here give an Abſtract of the Inſtructions, iſſued out by his Royal Highneſs, the Prince of *Denmark*; in which all that is Material in the Statute of 13 *Car.* 2. and elſewhere is comprehended; except the Articles againſt Treachery and Cowardice; as to which it is enough to tell in general, that all ſuch Crimes are puniſhable by Death or otherwiſe, according to the Diſcretion of the Court Martial.

A N

ABSTRACT

Of the Regulations, Eſtabliſh'd by his Royal Highneſs the Prince of DENMARK, *ſince his Acceſſion to the Office of Lord High Admiral; in which the Captains are required to take Care*

THat GOD be duly ſerv'd; and Vice, Prophaneneſs, and all diſorderly Practices be reſtrain'd and puniſh'd. *Viz.*

All Perſons convicted of Swearing, Curſing or Blaſpheming the Name of GOD, to forfeit One Day's Pay.

Seamen to undergo the like Forfeiture for Drunkenneſs; but complaint being made to the Queen or Admiral againſt any Commiſſion or Warrant-Officer, and be found guilty of that Crime, to loſe his Office, and be for ever incapable of Serving.

Seamen convicted of Lying, to be Corporally puniſh'd, by being hoiſted up upon the Main Stay, &c. *and others to forfeit half a Days Pay.*

For Reſtitution to be made to the Party injur'd, out of the Wages of any Seamen convicted of Theft; and the Criminal further puniſh'd, as the Commander ſhall think meet.

For lying aſhore without Leave, every Perſon to forfeit the firſt time, two Day's Pay; the ſecond four, the third a Weeks, and the fourth to be diſcharged as a Run-a-way.

For neglect of Watch, or being found out of it, to forfeit one Day's Pay.

Sleeping in time of Watch, to be puniſh'd according to the Diſcretion of the Commander, and fouling the Decks, the ſame.

Theſe Penalties to be read Monthly, and to be ſtrictly obſerv'd; and a Record to be kept of Forfeitures.

That a Weekly Account be by them tranſmitted to the Secretary of the Admiralty, of the Progreſs made in fitting out of Ships, while in Petty Warrant.

That

That all the Rigging, Furniture and Tackle of the Ships be in good Condition before they put to Sea.

That all the neceſſary Stores and Proviſions be brought on board the Ships before they ſail, that the Queen may not be put to an unneceſſary Charge in ſending the ſame after them.

To take Counter-parts of all Indents, that it may be known with what Proviſions they are to ſet forth.

To take care that their Clerks take a particular Account in Writing of all Proviſions that come aboard, to prevent Embezlements.

Their Pay to commence from the Day of their lying aboard, and none to lie aſhore not one Night but Flag Officers, whoſe Functions on board as private Commanders is to be ſupplied by their Lieutenants, who are hereby enjoined

To obey their immediate Commanders, and all their other Superior Officers.

Not to go aſhore without their Commander's Leave.

In Caſe of the Death or Abſence of their Commanders, to take upon themſelves the Command of the Ships in which they ſerve.

To keep an exact Journal of all Proceedings, and deliver one Copy thereof to the Admiralty, and another to the Navy Board.

To inform the Captains of all Miſdemeanors of Paſſengers, or others, coming to their Knowledge.

Not to be paid without producing Certificates from the principal Officers and Commiſſioners of the Navy, of their having performed their Duty in ſuch Points as fall under their Obſervation.

That the Victualler's Hand be produced by the Purſer for Proviſions delivered.

That no Cables be cut, and no Repairs made but what are judged neceſſary by the Captain and Officers, and for that effect that a Survey Book be kept, and no Stores lent, but in Caſes of Neceſſity.

That an Account of the Expence of all Stores ſigned by the Captain be tranſmitted to the Comptroller of her Majeſty's Navy.

To enter only able Men, and not to bear Supernumeraries, without expreſs Orders, but ſuch as are taken out of Wrecks, or Slaves redeemed, *&c.*

To receive a perfect Muſter Book from the Clerk of the *Checque* of the Yard where the Ship was laſt muſter'd.

To keep a Sea Book in good order, to muſter the Men Weekly, and ſend the Muſter Book every Two Months to the Navy Office, and to keep Prick and Checque with the Clerk of the Checque whilſt the Ships are in Petty-Warrant, for adjuſting the Proviſions.

Not to diſcharge Men by Tickets unneceſſarily, and to ſend a Monthly Account of ſuch as are diſcharged.

To rate none as able Seamen who have not ſerved Five Years.

No Partiality to be uſed in rating the Ships Company, under Pain of being accountable to the Queen for any Damage.

No Seamen to be aſhore without Leave.

The Men to be ſo regularly quarter'd as every one may know his Duty.

No unneceſſary Diſburſments made abroad to be reimburſed.

To prevent Counterfeits none but printed Tickets to be iſſued out, and theſe to be ſigned by the Captain, Maſter, Purſer, Boatſwain, and that not till the Perſon for whom the ſame is made be actually diſcharged.

To keep the Men together while refitting.

To keep the Ships in good Trim.

To ſend a particular Account of Supernumeraries, *&c.* to the Victuallers of her Majeſty's Navy, for the more regular re-victualling.

To examine carefully into the reaſon of any Species of Proviſions falling ſhort.

To ſend ſick and wounded Mens Cloaths and Bedding aſhore with them when themſelves are ſent aſhore, and to take all convenient Care of them, to put a *Query* upon their Names till they return, or bring Certificates of their entring in ſome of her Majeſty's Ships, and to take aboard at any Port ſuch as are ſent by the Agent for the Sick and Wounded to be returned to their own Ships, and to correſpond with the Commiſſioners for the ſick and wounded Seamen concerning ſuch of their Men as are ſo.

To aſſiſt at the Muſters.

To take care that Cloaths, Tobacco, *&c.* be vended as hereafter directed, *viz.*

	l.	*s.*	*d.*	
Broad Cloth Coats at	0	19	0	each.
Kerſey Gowns at	0	19	0	each.
Waſtcoats at	0	06	8	each.
Breeches at	0	05	8½	*per* Pair.
Yarn Stockings at	0	02	10½	*per* Pair.
Blue Shirts at	0	03	4	each.
Wax'd Leather Shoes at	0	04	3¼	*per* Pair
Blue Suits, *viz.* Waſtcoats and Drawers at	0	04	9	each Suit.
Strip'd Suits lin'd with Canvas, *viz.* Waſtcoats and Breeches at	0	10	11¼	each Suit
Tobacco at	0	01	7	*per* Pound

That all Slop Cloaths be viewed by the Officers, and ſuch as are not according to the Patterns, returned, or the Prices abated.

That the principal Officers of the Navy alter the Prices as often as they ſhall ſee Cauſe.

That Slop Cloaths to the Value of One Months Wages be furniſhed at their firſt going abroad to any Perſon who deſires them in time of War, but after the War only Ten Shillings Worth of ſuch Cloaths for each Two Months the Seamen are aboard. No

No ſtrong Waters to be ſold, or Scores upon the Column of Slop Cloaths for the ſame.

No Payment to be made for Slop Cloaths without a Book in due Form.

Each Man's Debt for Slop Cloaths to be ſet upon his Ticket.

That Slop Cloaths be delivered only to ſuch as ſtand in need of them, and then openly.

The Cloaths of Seamen dying to be ſold at the Main-Maſt, and the Proceeds to be entred on Account of the Buyers, for the Benefit of the Defunct's Executors or Adminiſtrators.

That at the Death or Removal of any Purſer an Inventory of the Cloaths as well as Proviſions be taken, for the more regular charging of the new Purſer with the ſame, *&c.* and at the laying up of the Ship the remaining Slop Cloaths be return'd to the Slop-ſeller.

The Vender of the Cloaths to allow the Purſer 12 *d.* in the Pound for his Trouble, and if they Two can't agree, employ any other Officer in the Ship.

That the Slop-ſeller of the Navy ſend to the Comptroller an Account of what Slop Cloaths he ſends on Board.

In Caſe of a Neceſſity of buying Slop Cloaths in Foreign Parts, that the ſame be done according to the Directions aforeſaid, as near as may be.

Each Commander to keep a Slop Book, to be tranſmitted to the Comptroller of the Navy, who is to cauſe the Muſter and Pay Books to be examined thereby, and carefully to compare the Invoices ſent him with all the aforeſaid Books.

The Slop-ſeller to be duly paid as the Ships are paid.

The Purſer to oblige himſelf to be accountable to the Slop-ſeller for his Slop Cloaths, and give him a ſigned Account of what he has iſſued out during each Voyage.

That no Abatements be made out of the Seamens Wages for any Cloaths pretended to be ſold them, otherwiſe than is above preſcribed.

The Bedding to be furniſh'd by the Purſer upon her Majeſty's Account, the Bed to be 5 Foot 8 Inches long, and 2 Foot 2 Inches broad, and together with the Pillows, both to be made of good Hammel Cloth, and to have at leaſt 11 Pound of good Flocks in them, and the Coverlet to be 6 Foot 2 Inches long, and to weigh 6 Pounds, and be well wrought, each Suit at 11 Shillings.

Tobacco to be iſſu'd out by the Purſers, according to the Directions of the Navy Board, not exceeding 20 *d.* a Pound cut and dry, and not above 2 Pound a Month to be given any one Man.

Purſers to provide Six Pay Books in due Form.

The Captains upon all Occaſions to maintain the Honour of their Sovereign, in protecting her Majeſty's Subjects, and thoſe of her Allies.

Notwithſtanding what has been already ſaid about Salutes, as I had not then ſeen what is here ordain'd in his Royal Highneſs's Inſtructions, I think the Point is of Importance enough to deſerve to

Article XXXI.

Upon your meeting with any Ship or Ships within her Majeſty's Seas (which for your better Guidance herein you are to take notice that they extend to Cape Finiſter) *belonging to any foreign Prince or State, you are to expect that in their Paſſage by you they ſtrike their Topſail, and take in their Flag, in Acknowledgment of her Majeſty's Sovereignty in thoſe Seas, and if any ſhall refuſe to do it, or offer to reſiſt, you are to uſe your utmoſt Endeavour to compel them thereunto, and in no wiſe to ſuffer any Diſhonour to be done to her Majeſty; and in caſe any of her Majeſty's Subjects ſhould be ſo far forgetful of their Duty as to omit ſtriking their Topſail as they paſs by you, when it may be done without the Loſs of the Voyage, you are to bring them to the Flag to anſwer their Contempt, or otherwiſe to return the Name of the Ship and of the Maſter unto the Secretary of the Admiralty, for the Information of her Majeſty, my ſelf, or the Lord High Admiral of* England, *or Commiſſioners for executing the Office of Lord High Admiral for the Time being the Name of the Ship and Maſter, as alſo the Place from whence, and the Port to which ſhe ſhall be bound; and you are to make the Maſter of her to pay the Charges of what Shot you ſhall make at her. And you are farther to take notice, that in her Majeſty's Seas her Majeſty's Ships are in no wiſe to ſtrike to any; and that in other Parts no Ship of her Majeſty's is to ſtrike her Flag or Topſail to any Foreigner, unleſs ſuch foreign Ship ſhall have firſt ſtruck, or at the ſame time ſtrike her Flag or Topſail to her Majeſty's Ship, except in the Harbour of ſome foreign Prince, or in the Road within Shot of Cannon of ſome Fort or Caſtle, where you are to ſend aſhore to inform your ſelf what Return they will make to your Salute; and in caſe you have good Aſſurance that you ſhall be anſwered Gun for Gun, you are to ſalute the Port as is uſual; but if you ſhall not be well aſſured that you ſhall have an equal Number of Guns returned you, you are in no wiſe to ſalute that Place. And in caſe the Ship wherein you command ſhall at the ſame time carry her Majeſty's Flag, you are before you ſalute the Place carefully to inform your ſelf how Flags (of the ſame Quality with that you carry) of other Princes have been ſaluted there, and you are to inſiſt on it to be ſaluted with as great Reſpect and Advantage as any Flag of the ſame Quality with yours of any other Prince hath been ſaluted in that Place, from which you are in no wiſe to depart.*

XXXII. *You are hereby directed (purſuant to an Order of Council of the 30th of* June 1681) *to obſerve the ſame Rules of Salutes in the Port of* Genoa *as you do at* Livorn, *and all other Ports, without any Diſtinction, notwithſtanding any former Practice.*

XXXIII. *As for the Salutes, you are to take notice of and ſtrictly to follow this enſuing Regulation,* viz. *a Captain of a Second Rate, being neither Admiral, Vice Admiral, nor Rear Admiral, at his firſt coming and ſaluting his Admiral and Commander in chief, is to give Eleven Pieces, his Vice Admiral Nine, and his Rear Admiral Seven, and the other proportionably leſs by two, according to their Ranks; but the Commander of any Ship is not to ſalute his Admiral or Commander in chief*

after

after he hath done it once, except he hath been abſent from the Flag 2 Months. When a Second Rate ſhall carry an Ambaſſador, Duke or Nobleman, at his coming aboard he is to give 11 Pieces, and at his landing 15; and when he ſhall carry a Knight, Lady, or a Gentleman of Quality, at their coming on board he is to give 7 Pieces, and at landing 11, and other Ships are to give leſs by 2, according to their Rank and Number of Ordnance.

When an Admiral of a foreign Nation is met with, he is to be anſwered with the like Number by all the Ships he ſhall ſalute; if a Vice Admiral, the Admiral is then to anſwer him with 2 leſs; but the Vice Admiral and the Rear Admiral, and as many of the reſt as ſhe ſhall ſalute, ſhall give him the like Number; if a Rear Admiral, then the Admiral and Vice Admiral to anſwer him with 2 leſs; but if he ſhall ſalute any other, they are to anſwer him in the like Number. When a Man of War or Merchant Man of another Nation, or of our own, ſalutes any of her Majeſty's Ships, ſhe is to anſwer by 2 leſs. When any of the Captains of her Majeſty's Ships ſhall have occaſion to ſalute any of her Majeſty's Caſtles, they are to give 2 Guns leſs than they are directed to give upon ſalutiug their Admiral or Commander in chief, as aforeſaid, which Rules being principally intended for Time of Peace, you are to take notice that you do not during War fire any Gun in Salute unto any Ships or Caſtles whatſoever, unleſs to Ships or Caſtles of ſome foreign Prince or State in Amity with her Majeſty; and in ſaluting them you are to obſerve the Rules already given in this Article, as above.

Note, This I was the more curious to inſert at large, that the World may obſerve how nice the Government ſtill continues to be as to the tender Point of the Sovereignty of the *Britiſh* Seas.

In Caſe of Prizes being taken all Embezlements to be prevented, and they ſent into Port, to be proceeded againſt in the High Court of Admiralty, Three of the principal Priſoners, and all Papers to be ſent thither.

No Tobacco to be ſmoak'd in dangerous Places, and all poſſible Care to be taken to prevent Fire.

Not to hazard Maſts too much in blowing Weather.

To take all *Engliſh* Seamen out of foreign Ships, compelling the Maſters thereof to pay their Wages due.

To ſearch Ships for Arms and Proviſions of War, of which if no good Account be given, to bring in the Ships.

And for preventing all unneceſſary Expence in Gunners Stores, no Allowance to be made for the aforeſaid Stores not periſhable, except it appear the ſame were really loſt or waſted in the Service, the Powder and Shot to be ſcal'd only once in Six Months, the firſt Month the Men to be Exerciſed twice every Week, the ſecond Month only once every Week, and afterwards once a Month, allowing only 6 Shot to every Exerciſing; no Gun ſmith to be admitted without a Certificate of their Capacity by the Maſter of the Ordnance, and not to be paid without Certificate of their having well diſcharg'd their Duty; after an Engagement the Powder to be ſurvey'd, to certify what Stores are taken out of Prizes;

upon the Death of Gunners, or other inferior Officers, Inventories to be taken of their Stores; Captains to give Notice upon their Approach to any Harbour, and upon going aſhore, to ſecure the Gunners Stores till they be taken out of the Ship.

And for preventing all unhappy Accidents by Powder, the Captain, or in his Abſence the next commanding Officer, continually to keep the Key of the Powder Room, and to poſt a Centinel at the Scuttle, with abſolute Orders not to ſuffer any Perſon to go down without ſpecial Permiſſion, *&c.*

No Merchandizes to be taken on Board, Gold, Silver, and Jewels, excepted.

Captains not to order to diſpoſe of any Stores without giving a Warrant in Writing.

No Leave to be given to any Officer to be abſent when the Ship is ready to ſail.

In ſuſpending or confining of Officers Inventories to be taken of all Stores and other Things in their Poſſeſſion at the time of their Suſpenſion, and Receipts to be given them for the ſame.

Not to go into Port without Orders, or ſtay there longer than directed.

To deliver a Journal of the Voyage to the Secretary of the Admiralty at the End thereof, and in writing to him during the ſame to give an Account of the Ships Proceedings, and what Men and Victuals are on board, and how the Wind is at the time of writing.

To preſerve the Books and Papers of dying Officers.

To obſerve the Act of Parliament concerning Prizes.

To protect all Ships and Veſſels bound the ſame way, and take care of all under their Convoy, and to take no Convoy Money.

To tranſmit an Account of coming into Port.

To carry no Women to Sea.

" Theſe Inſtructions to be carefully obſerv'd, and Certificates of " the Performance thereof, from the Comptroller of the Navy, and " Surveyer, and Clerk of the Acts, to be produc'd to the Treaſurer " of the Navy, before Wages be paid. Theſe Inſtructions to be " read Monthly, and they and all other to be exactly obſerv'd.

No Men to be taken out of homeward bound Merchant Ships.

" After theſe the Prince proceeds to give the neceſſary Inſtru- " ctions about examining Priſoners taken in the Enemies Priva- " teers, and in Pirates, *&c.* which have been already recited at " large in the precedent Articles, and then follow ſome additio- " nal Inſtructions, requiring the Captains

To enter their Supernumeraries regularly at the End of the general and Monthly Muſter Books, mentioning from whence, and how they came on board.

To enter exactly the Time of every Man's Entry, and the Time of every Man's Abſence from the Ship, and Re-entry to the ſame, and

and to diſtinguiſh between Volunteers and Preſt Men, and between Men of the ſame Name.

To iſſue Tickets in favour of the Relations, or others having Right, for the Wages due to dead Men; to diſcharge no Man unneceſſarily againſt his Will, and to diſcharge all ſuch as deſire to be diſcharged, in order to have Preferment in other Ships.

To ſet off the Change of Rigging, Loſs of Maſts, *&c.* and to give Reaſons for the Loſs of Topmaſts or Boats.

To ſurvey Stores upon the Death of Officers, and keep an exact Account of all Stores and Proviſions borrowed or Lent.

To take care that all Stores and Proviſions, and Seamens Bedding, and Neceſſaries for ſick Men, be ſhip'd in good order.

To hold a continual Correſpondence with the Commiſſioners for Sick and Wounded.

To give Reaſons to the Navy Board for taking off *Q's* from the Seamens Names.

When Sailors deſert, to particularize the manner of their deſerting at the End of the Monthly Muſter Book.

After the foregoing Orders and Inſtructions, there are Five other Articles ſubjoin'd concerning their Allowance Money, and other things, of which here follows an Abridgment, whereby it is enjoin'd,

That when Proviſions fail Officers as well as others, and in fine all Perſons whatſoever, partake of the general Calamity, and go to ſhort Allowance, and that an Account be given of the Time of the beginning and ending thereof, and of the Quantity of the Allowance, and whether it be paid or not, that the Commiſſioners of the Victualling may act accordingly, and that no Perſon preſume to buy of the Seamen ſhort Allowance Money, but that it be fully paid to themſelves.

That Purſers don't ſell the Proviſions they buy of the Mariners or of the Officers to Merchants, but that they keep the ſame for the Uſe of the Ships, and be allowed for them by the Commiſſioners of the Victualling.

That the Commiſſioners of the Navy take care that Purſers be not left behind when Ships go upon Foreign Voyages; that the Captains ſee that ſuch Proviſions as the Victualling Office acquaints them are ordered for their Ships be duly put aboard, and likewiſe ſee that the Purſers bring aboard what Money is aſſigned them for buying Proviſions in Foreign Parts.

That the Lieutenants of Sixth Rates (where any are allowed, and where none are allowed, the Gunners) do ſign the Captain's Muſter Books.

That ſpecial Care be taken for the Preſervation of the Papers of all Officers dying, under the Penalty of loſing Wages due.

And now I am ſpeaking of the Perſons, before I go any farther it will not be amiſs to inſert a Liſt of the Ships of the Fleet, which take as follows.

A Liſt

A List of the Royal Navy of *ENGLAND*, &c.

First Rates 7.

	Men	Guns
Royal *Anne*		
Britannia	754	100
London	706	96
Queen	754	100
Royal Sovereign	880	110
Victory	754	100
Royal William	754	100

Second Rates 14.

	Men	Guns
Marlborough	640	90
Aſſociation	640	90
Barfleur	640	90
Duke	640	90
Dutcheſs	640	90
St. George	688	96
Royal Katherine	524	80
St. Michael	582	90
Neptune	640	90
Namure	640	90
Oſſory	640	90
Sandwich	640	90
Triumph	640	90
Vanguard	640	90

Third Rates 43.

	Men	Guns
Berwick	446	70
Boyne	476	80
Breda	446	70
Burford	446	70
Bedford	446	70
Captain	446	70
Cornwall	476	80
Chicheſter	476	80
Humber	476	80
Ipſwich	446	70
Kent	476	70
Lancaſter	476	80
Lenox	446	70
Monmouth	389	66
Norfolk	476	80
Newark	476	80
Cambridge	476	80
Cumberland	476	80
Content	446	70
Defiance	389	64
Dorſetſhire	476	80
Eagle	446	70
Edgar	432	72
Elizabeth	446	70
Eſſex	446	70
Expedition	446	70
Le Ferme	450	72
Naſſau	446	70
Orford	446	70
Reſtoration	400	70
Royal Oak	456	74
Rupert	389	66
Ranelaugh	476	80

Reveng

	Men	Guns
Revenge	446	70
Ruſſel	476	80
Suffolk	446	70
Swiftſure	408	70
Shrewsbury	476	80
Somerſet	476	80
Sterling Caſtle	400	70
Torbay	476	80
Warſpite	408	70
Yarmouth	446	70

Fourth Rates 59.

	Men	Guns
St. *Alban's*	240	54
L' Aſſure	250	64
Aſſiſtance	226	48
Angleſey	226	48
Advice	226	48
Auguſt Prize	250	60
Bonadventure	226	48
Burlington	226	48
Blackwall	226	48
Canterbury	346	60
Centurion	226	48
Chatham	226	48
Crown	226	48
Colcheſter	226	48
Coventry	226	48
Deptford	226	48
Kinſfiſher	216	46
Litchfield	226	48
Medway	346	60
Monk	332	60
Montague	346	62
Norwich	226	48
Nonſuch	226	48
Oxford	274	54
Portland	226	48
Pembroke	346	60
Pendennis	326	48
Plimouth	332	60
Rocheſter	226	48
Romney	226	48
Dover	226	48
Dragon	226	48
Dunkirk	332	60
Dreadnaught	346	64
Dartmouth	226	48
Exeter	346	60
Falmouth	226	48
Faulkland	226	48
Greenwich	274	54
Glouceſter	346	60
Guernſey	226	48
Hampſhire	226	48
Jerſey	226	48
Kingſton	346	60
Salisbury Prize	346	60
Southampton	226	48
Sunderland	346	60
Severn	226	48
Triton	226	42
Tiger	226	48
Tilbury	226	48
Vigo	226	42
Weymouth	226	48
Woolwich	274	54
Windſor	346	60
Warwick	226	48
Wincheſter	226	48
Worceſter	226	48
York	320	60

Fifth Rates 30.

	Men	Guns
Adventure	190	44
Arundel	135	32
Bedford Galley	145	32
Bridgewater	135	32
Charles Galley	135	32
Haſtings	135	32
Hector	134	32
Kingſale	135	32

	Men	Guns		Men	Guns
Lyme	135	32	*Goſport*	135	32
Lynn	135	32	*Pool*	135	32
Laſtoffe	135	32	*Rye*	135	32
Loo Hulk	135	32	*Sheerneſs*	135	32
Mary Galley	135	32	*Soldadoes Prize*	180	40
Mermaid	135	32	*Shoreham*	135	32
Milford	135	32	*Sorlings*	135	32
Dolphin	115	26	*Speedwell*	135	32
Experiment	135	32	*Scarborough*	135	32
Fovey	135	32	*Tartar*	135	32
Feverſham	135	32	*Winchelſea*	135	32

Sixth Rates 16.

	Men	Guns		Men	Guns
Dunwich	110	24	*Newport*	110	24
Deal Caſtle	110	24	*Penzance*	110	24
Flamborough	110	24	*Peregrine*	50	20
Foy	100	24	*Queenborough*	110	24
Lizard	110	24	*Swan*	110	24
Maidſtone	100	24	*Solebay*	110	24
Margate	110	24	*Sea Horſe*	110	24
Nightingale	110	24	*Seaford*	110	24

Fire Ships 11.

	Men	Guns		Men	Guns
Firebrand	45	8	*Strumbulo*	45	8
Griffin	45	8	*Terrible*	45	8
Hunter	45	8	*Vulcan*	45	8
Hawk	45	8	*Vulture*	45	8
Lightning	45	8	*Veſuvius*	45	8
Phœnix	45	8			

Bomb-Veſſels 12

	Men	Guns		Men	Guns
Baſilisk	30	4	*Mortar*	65	12
Blaſt	30	4	*Portſmouth*	50	10
Carcaſe	30	4	*Salamander*	35	10
Comet	30	4	*Star*	35	8
Furnace	30	4	*Serpent*	30	4
Granada	30	4	*Terror*	30	4

Yatches

Yatchtes 13.

	Men	Guns
Charlotte	30	8
Cleveland	30	8
Fubbs	40	12
Henrietta	30	8
Iſabella	30	8
Iſle of Whight		4
Jemme		2
Katherine	30	8
St. Loe		4
Mary	30	8
Queenborough		4
Soeſdyke	35	8
William and Mary	40	8

Brigatines 5.

	Men	Guns
Diſcovery	35	6
Diſpatch	35	6
Diligence	35	6
Fly	35	6
Spy	35	6

Sloops 7.

	Men	Guns
St. Anthony	60	15
Boneta	35	2
Hound	35	2
Martin	35	2
Prohibition	35	2
Swift	35	2
Wolf	35	2

Advice Boats 3.

Eagle	54	10
Paramore	50	10
Scout Boat		

Store Ships 2.

	Men	Guns
Canterbury	40	8
Greenfiſher	8	2

Hoſpital Ship.

Suffolk Hoy	80	10

Hulks 13.

	Men	Guns
Aſia		
Chatham	7	
St. David	40	
Exeter	3	
French Ruby	66	
Joſiah	80	30
Loyalty	40	
Lewis	50	
Medway	30	
Plimouth	29	
Rotterdam	73	
Succeſs	5	
Thunderbold	4	

Hoys 16.

	Men		Men
Delight	4	*Supply*	7
Endeavour	4	*Tranſporter*	7
Foreſter	7	*True Love*	4
Lighter	5	*Tranſport*	2
Marygold	3	*Unity*—1	4
Nonſuch	5	*Unity*—2	4
Owners Goodwill	4	*Unity*—3	4
Sophia	4	*Sheerneſs*	5

Smacks 3.

Royal Eſcape	10
Flemiſh	2
Sheerneſs	

Ketch 1.

Providence	4

Two Tow Boats, with 20 Men each.

First Rates		7
Second Rates		14
Third Rates		43
Fourth Rates		59
Ships of the Line of Battle, in all		123
Fifth Rates	30	
Sixth Rates	16	
Cruizers in all	46	46
Fireſhips		11
Bomb Veſſels		12
Yatchtes		13
Brigantines		5
Sloops		7
Advice Boats		3
Store Ships		2
Hoſpital Ship		1
Hulks		13
Hoys		16
Smacks		3
Ketch		1
Tow-Boats		2

So that in all (beſides Tenders, *&c.* not mentioned) according to this Computation, there is in Her Majeſty's Service of Ships, and Veſſels of all Sorts. 258

And

And to Sail, and Man the aforeſaid number of Ships and Veſſels, which carry about 9300 Guns, it would require about 52000 Men, which is a very conſiderable Number, being 12000 more than is voted by Parliament. And indeed, tho' the Queen has as many Ships as wou'd require that Number of Men, I very muſt queſtion whether they have ever been all in Service at one time.

And now that I am ſpeaking of the Number of Ships in the Royal Navy, *&c.* it will not be amiſs, for the Satisfaction of the Curious, to inſert the Dimenſions of one of thoſe prodigious Marine Fortreſſes, *viz. The Royal Sovereign*, which was launch'd at *Woolwich*, the 25th of *July*, 1701, and is as under, *viz.*

	Foot	Inch.
Length of the Keel to the Break of the Sweep in the Stern	146	6
The full Tread upon the Ground	155	
Length on the Lower Gun Deck	174	6
From the top of the *Tafferel*, to the forepart of the Figure of the *Head*	210	7
Extream Breadth	54	3½
Depth in the Hold	19	10

This numerous Fleet (excluding ſmall Cruizers) is divided into 3 Squadrons, *viz.* The Red, the White, and the Blue, ſo diſtinguiſh'd by the Colour of the Flags or Standards they wear.

Each of theſe has three General Officers, *viz.* an Admiral, Vice-Admiral, and Rear-Admiral.

The Ld. High Admiral commands the whole Fleet when together, and the Capt. of the Ship he is in, is reputed a Rear Admiral.

All the reſt of the private Commanders take place, according to their Seniority: when 2 or 3 Ships are ſent upon any Expedition together, and no Admiral amongſt them, the Senior Capt. commands, except one of the younger Capts. be appointed Commadore, by a ſpecial Order of the Lord High Admiral, or Admirall of the Fleet.

Small Ships ſeldom ſail in Squadrons, but are ſent to Cruize in particular Stations, or convoy Merchantmen, *&c.*

All thoſe Ships and Perſons are under the immediate Command of the Ld. High-Admiral, who is aſſiſted in the Adminiſtration of the Marine Affairs, by a great many Officers and Servants under him, beſides thoſe that are actually in the Fleet. Of whom the chief are,

Sir *John Leak*, Admiral and Commander in Chief of the Fleet.
Sir *George Byng*, Admiral of the White.
Sir *John Jennings*, Admiral of the Blue.
Sir *John Norris*, Vice Admiral of the Red.
The Right Honble. *James* Ld. *Durſley*, Vice Admiral of the Blue.
John Baker, Eſq; Rear-Admiral of the Red.

The

The Secretary of the Admiralty, *Joſiah Burket*, Eſq; Deputy-Secretary, *John Fawler*, Eſq;.

The Management of fitting out Ships, and ſupplying them with Stores, *&c.* proper for their Voyages, is under the Lord-High Admiral, committed to the Principal Officers and Commiſſioners of the Navy, and the Victualling to the Commiſſioners thereof.

The Principal Officers are the Treaſurer, Comptroller, Surveyor, and the Clerk of the Acts of the Navy.

Sir *Tho. Littleton* is Treaſurer, whoſe Buſineſs is, when the Navy Board ſhall ſignifie to him the Sum of Money wanting for the Service, to ſollicite the Lord High Treaſurer, receive what ſhall be order'd out of the Exchequer, and account for the ſame.

Sir *R. Haddock* the Comptroller, is to comptroul all Payments of Wages, examine and regulate all Accounts of Diſburſements, Allowances, *&c.* that there be ſufficient Vouchers for the one and Orders for the other, if not practicable or allowable by the ſtanding Rules and Methods of the Navy.

Dan. Furzer, Eſq; The Surveyor's Duty is to ſurvey the Magazines of Stores Ships, and Works of the Yards; and the Boatſwains and Carpenters Stores deliver'd to the Officers of each Ship, to be accounted for in his Office.

And the Clerk of the Acts is to record all Orders, Contracts, Bills and Warrants, and Minutes of the important Tranſactions of the Board, that occur in the Execution of his reſpective Duty, who is *Charles Sargiſon*, Eſq;.

There is a new Eſtabliſhment of Superintendant of the Ports and Yards, whoſe Buſineſs it is to expedite the Ships that are fitting out for Sea Service. Sir *William Jumper* is appointed for *Chatham*, *Sheerneſs*, and the River; and Captain *Mings* for *Portſmouth*; Captain *Hovenden* for *Plimouth*.

There are eleven other Commiſſioners, who perform the following Duties, *viz.*

Benjamin Tymewel, Eſq; Comptroller of the victualling Accounts, examines all Purſers Indents for Proviſions, and the Expence thereof; ſtates and adjuſts, and ballances their Accounts, and ſees that both the Queen and Sea-Men have right done them therein.

Dennis Lyddel, Eſq; Comptroller of the Treaſurers Accounts, Aſſigns all Bills for Payments, keeps an Account of all Money receiv'd and paid, and that remaining in the Treaſurers Hands, and examines the particular Sums, brought to Account in his Leidger.

Tho. Jennings, Eſq; Comptroller of the Store-keepers Accounts, examines the Receipt and Expence of Stores deliver'd to each of Her Majeſty's Yards now at *Lisbon*.

Geo. Tollet, Eſq; Aſſiſtant to the Comptroller in examining Bills for Stores, and preſiding at Bays.

Sir

Sir *Tho. Hopſon* and Captain *Edwards*, Commſſioners at large.

Anthony Hammond, Eſq; Commiſſioner for the Affairs of the Regiſtry, and in the Abſence of Commiſſioner *Jennings* at *Lisbon*, inſpects *Deptford* and *Woolwich* Yards.

The other five reſide at the Ports againſt their Names here expreſs'd, for the Management of the reſpective Yards, and are as follow;

Commiſſioner St. *Lo*; at *Chatham*, for that and *Sheerneſs*.
Commiſſioner *Townſend* at *Portſmouth*.
Commiſſioner *William Wright*, at *Plymouth*.
Commiſſioner *L. Wright*, at *Kingſale*.

Theſe as well as the others aforemention'd, have the Sallary of 500 *l. per Ann.* each. But Sir *Rich. Haddock*, as a Penſion, and Commiſſioner *Jennings* at *Lisbon* for extraordinary Charges, have an additional Allowance of 500 *l. per Ann.* each, and 80 *l. per Ann.* is allow'd for Houſe Rent, to thoſe who have not Houſes at the Office.

The Commiſſioner for victualling, keep their Office on *Tower-Hill*, where they contract for the Quantity of Proviſions of each Species, and have Agents at the ſeveral Ports for ſupplying the Proviſions order'd for each Ship. The Number of the Commiſſioners are either encreas'd or leſſen'd, as the Service requires, but at preſent are ſeven, *viz.*

Thomas Colby,
Henry Vincent,
Danzil Onſlow,
Tho. Beere,
Tho. Reynolds,
Kendrick Edsbury,
Thomas Harlow,
} Eſquires.

There are three Commiſſioners appointed for receiving the 6*d. per Menſem* out of Seamens Wages, for the uſe of *Greenwich Hoſpital:* and in time of War, there are always Commiſſioners appointed for taking care of the Sick and Wounded Seamen, and Priſoners of War, *&c.*

Beſides all which, there are a great many other Officers, ſuch as Chaplains in Ordinary, Surgeons in Ordinary, Clerks of the Cheque, Clerks of the Survey, Store-keepers, Maſters, Attendants of the Yards, Ship-wrights, and others, at Her Majeſty's Ports and Yards of *Chatham*, *Deptford*, *Woolwich*, *Portſmouth*, *Plimouth*, *Deal*, *Sheerneſs*, *Harwich*, &c. and other Places, who all hold their Offices of the Lord High-Admiral by Warrant, *durante beneplacito*.

So much for the Management and Government of the Fleet; let me now ſay a word or two of the way of proceeding in, and of the Conſtitution of the High Court of Admiralty; which is another Branch of the Admiral's Prerogative.

I have

I have already given you a Diſcourſe of the Juriſdiction of the Admiralty of *England:* But having there only treated of the Extent of the Juriſdiction of that Court, without giving a Deſcription of the Court it ſelf; I crave leave to do that here, as conciſely as I can.

King *Edward* III. is by ſome held to be the firſt of our Princes who erected a Court of Admiralty, for the Deciſion of Marine Affairs, in which all Proceſſes are commens'd in the Name of the Lord High Admiral, and try'd by his Lieutenant (call'd *Judge of the Admiralty*) who is commonly a Learned Doctor of the Civil Law, according to which they proceed in Marine Cauſes, and not according to the common Law; the Sea not being reckon'd within that Juriſdiction. But it were to be wiſh'd that the Juriſdiction of the Admiralty Court, were leſs ſubject to Appeals, or Prohibitions from the Courts at *Weſtminſter*, for the Reaſons elſewhere alledg'd in the former part of this Treatiſe.

The Judges of the Admiralty in Civil Affairs, have a peculiar Regard to the Laws of *Rhodes* and *Oleron*, inſerted in the beginning of this Diſcourſe.

The Judge of the High Court of Admiralty is ſtyl'd, *Supremæ Curiæ Admiralitatis Angliæ Judex, ſive Preſidens:* And all the Writs and Decrees of that Court run in the Name of the Lord High-Admiral, and are directed to all *Vice Admirals, Juſtices of the Peace, Mayors, Sheriffs, Bailiffs, Conſtables, Marſhals, and others, Officers and Miniſters of our Sovereign Lady the Queen, as well within Liberties as without.*

In this Court there is a Regiſter and his Deputy, and a Marſhal, who attends the Court, and carries before the Judge a Silver Oar, having upon it the Arms of the Queen, and of the Lord High-Admiral.

The *Procurators* or *Proctors* are ſo called becauſe they not only act, but make themſelves in ſome manner Parties for their Clients, producing the Witneſſes, preparing the Proceſſes, and attending (as in other Courts Attorneys do) the Advocates with the Proceedings.

The Lord High Admiral has here his Advocate (or Council) and Proctor, and all the other Advocates and Proctors are admitted by them. And all Places and Offices, belonging to this Court, are in the Gift of the Lord High Admiral.

The Court of Admiralty is held in *Doctor's Commons* near St. *Pauls*.

To the Juriſdiction of this Court does properly belong the Adjudication and Condemnation of Prizes, and the Cognizance of all Differences ariſing upon Maritime Contracts, ſuch as Charter Parties, Bills of Lading, Policies of Inſurance, Bills of Bottomry, &c. But the Courts at *Weſtminſter* now claim the Cognizance of Matters of Inſurance, and they are generally try'd there.

And here by the way to give the Reader a more perfect Notion of the Juriſdiction of this Court, it will be convenient to explain the Nature of the Cauſes and Matters, that are properly tryable before it; which I ſhall do in very few Words. In

In the first place, as to that of adjudging Prizes, 'tis fit the Reader shou'd know; that when any Ship is taken either of an Enemy in open War, or of the Subjects of any Nation, with which we are not at War, by way of Reprizal; or of Pyrates, who wage a continual War with all Nations; the Ship so taken cannot be legally dispos'd of, or sold, till she be adjudg'd lawful Prize, by the Court of Admiralty.

The Reason of this is plain: For as it often happens that Ships of War and Privateers, assault and sometimes seize the Ships of Neuters upon Suspicion, if the Captors were vested with the Power of judging decisively of those Affairs, the Controversy would quickly be at an end. But as all Princes and Sovereigns have by a common Consent establish'd Judicatures for the Determination of such Affairs: It is not any where lawful for the Captor to dispose of his Prize, nor safe for other Persons to purchase it, without a Sentence or Abjudication of the Prize, according to Law: And that is one of the peculiar Prerogatives of the High Court of Admiralty.

And as for the Cognizance of Differences arising upon Maritime Contracts, that Court ought likewise to have the sole Jurisdiction; as indeed it has in *England*, according to the Institution of the Court of Admiralty: But their Proceedings are often interrupted by the Intervention of a Prohibition, *&c.* of which more has been said in the precedent part of this Treatise.

The Maritime Contracts spoken of, are principally these four, *viz.* Charter Parties, Bills of Lading, Policies of Insurance, and Bills of Bottomry.

A Charter Party is a Contract between a Master or Owner of a Ship, and another Person, who hires the said Ship, paying either so much *per Mensem*, or agreeing upon a certain Sum for the whole Voyage. Of which you may see several Forms hereafter following. When any Differences arise between Merchants, and Owners, and Masters of Ships, by reason of the Breach or Non-performance of any of the Articles agreed upon, and concluded between them in the Charter-Party; the Party who thinks himself injur'd, must apply to the High Court of Admiralty for Justice.

But because it often happens that Masters of Ships not finding Persons to whom they can freight them out by the whole, declaring their Intension to Sail within a certain time, to a certain Port, take in Merchants, or other Peoples Goods in such small Parcels, that frequently the Freight of some of the Parcels, would not be sufficient to defray the Charge of the Charter-Party; that Defect is supply'd by the Intervention of another less voluminous and chargeable Deed, known amongst the trading World, by the Name of *a Bill of Lading*.

This Bill of Lading does effectually supply the Want of a Charter Party, with this Addition, *viz.* that it always acknowledges the Receipt of the Goods.

The Forms of Bills of Lading, which are generally printed with Blanks for Names, *&c.* are different, according to the Practice and Cuſtom of the different Maritime Countries; but they all agree in the Eſſentials, which are to this purpoſe.

In the firſt place, a Bill of Lading expreſſes the Name of the Port where the Ship lies at the time of its being ſign'd, and the Day of the Month, upon which it is Sign'd. *Secondly*, the Name of the Ship and Maſter, and that of the Port to which they belong. *Thirdly*, the Name of the Perſon, who puts Goods on Board. *Fourthly*, the Number of Bales, Cheſts, Boxes, Hogſheads, Pipes, Butts, *&c.* or other Parcels of Goods put on Board, and their Marks. *Fifthly*, the Name of the Port to which the Ship is bound. *Sixthly*, that of the Perſon to whom the Goods are to be delivered. *Seventhly*, the Freight that is to be paid for them, and whether there be Average, *&c.* to be paid. And *Eightly*, the ſame is ſubſcrib'd by the Maſter or Clerk of the Ship; and from the time of ſigning of the Bills of Lading, the Maſter becomes reſponſible for the Goods.

Generally three or more Bills of Lading are ſign'd, that in caſe one be loſt in the way, or miſcarry, another may be ſent.

All Merchants take Bills of Lading for Goods ſhip'd aboard of any Ship, tho' there be at the ſame time a Charter-Party in being, becauſe a Charter-Party contains only the Conditions, but does not mention the Receipt of the Goods, it being always made and ſign'd before the Goods be put aboard.

A Policy of Inſurance, is a Contract between a Merchant or Owner, or part Owner of a Ship, or any other Perſon ſending Goods or Monies to Sea, and an Inſurer; by which the ſaid Inſurer, in Conſideration of a *Præmium* of ſo much *per Cent.* paid down in ready Money, obliges himſelf to reſtore the whole Sum inſur'd to the Aſſuree, in caſe the Ship ſhou'd fall into the Hands of the Enemy, or of Pyrates; or ſhou'd be deſtroy'd by Fire or Tempeſt, or be loſt by any other Misfortune.

A Bill of *Bottomry* (ſo call'd from the Bottom or Keel of the Ship) is a Contract between two Perſons, the one borrowing, and the other lending a Sum of Money, by which the Borrower ſetting forth his Intention to make a Voyage in a certain Ship (which he names) acknowledges the Receipt of a certain Sum of Money from the Lender, upon this Condition: That if the ſaid Ship does happily perform her Voyage without any Diſaſter by Enemies, or otherwiſe, then he is to reſtore that Sum to the Lender, with an additional Sum (which is always expreſs'd) for the Intereſt (and in conſideration that the Lender runs all Reſques, it is very conſiderable) within a certain time after his Return; but that if the Ship ſhould be loſt or taken by Enemies or Pyrates, then the Perſon of the ſaid Borrower, to be for ever diſcharg'd, and the Lender to bear the Loſs.

Of

Of these you may also see several Forms in the part immediately succeeding, after the Forms of Charter-Parties.

A Master or Owner of a Ship may borrow Money upon Bottomry, upon the Security of his Ship, and those that lend at that rate, do generally exact such Profits as may allow them to insure the Sum lent.

The Rates of Insurance and Bottomry, are various, according to the Distance of the Ports to which the Ships are bound, the Season of the Year, and the Danger of the Voyage: and they depend upon so many Accidents in time of War, that they daily change. In some Voyages they give but 10, 15, or 20 *per Cent*; but in long and dangerous Voyages, they sometimes raise it to 30, 40, and 50 *per Cent.* so that they may well afford to insure.

Thus much concerning the Power of the Lord High Admiral, and the Court of Admiralty in Civil Affairs: And as to criminal Matters, take this short Information.

In Cases of Crimes committed by Officers or Mariners in the Navy, such as Cowardice, Treachery, Neglect of Duty, Breach of Orders, Desertion, and other things of that Nature, they are all try'd by a Court-Martial, compos'd of the Admiral, and Vice and Rear Admirals of the Fleet, or of the private Commanders, according to the Station of the Criminal, and Nature of the Crime.

As for Contempt, in refusing or neglecting to strike to the Queen's Ships, and other Offences of that Nature, they are triable before the Admiral, or his Lieutenant, the Judge of the High Court of Admiralty.

And as for Tryals for Pyracy, *&c.* after divers Alterations, which have been made; the Method of proceeding therein, was at last ascertain'd by an Act of Parliament, made in the Eleventh Year of K. *William*, *For the more effectually suppressing of Piracy*. This being to be in force but 7 Years, is now out of Date, and therefore omitted.

Thus much being said of the State, Establishment and Regulation of the Admiralty and Navy of *England*, and of the Encouragement propos'd to the Officers serving in it; 'twill now be convenient to consider the Management of the Crown and Kingdom of *England*, with Relation to the Mariners, and the Encouragements propos'd to them by Acts of Parliament, or otherwise.

And for the greater Order and Clearness, I shall proceed in that Enquiry, according to the Date of the Acts, or other Books, or Pamphlets, which I propose now to take into Consideration.

The first that occurs, is the Act for the Encouragement, and Encrease of Shipping and Navigation, past in the Parliament, held in the 12th Year of the Reign of King *Charles* II and famous under the Title of *THE NAVIGATION ACT*; in which, amongst other things, it was enacted, "That all Ships imploy'd in Navigating "between *England* and Foreign Countries, shall belong to *English* "Owners, the Master, and three Fourths of the Mariners being "*English*, under diverse Penalties therein contain'd.

But the enſuing *Parliament* being ſenſible of the Difficulty that *Merchants* have in finding ſufficient Numbers of *Engliſh* Mariners to ſail their Ships in time of War, when ſo many Thouſand are employ'd in the Publick Service, thought fit to enlarge the Number of one Fourth (to which the Foreign Seamen allow'd to ſail in *Engliſh* Ships, was then limited) to one half. So that now it is lawful for Merchant Ships to ſail with the Maſter, and one half of his Mariners *Engliſh*, whereas formerly there were to be no more than three Fourths; but 'tis to be obſerv'd (as I have elſewhere taken notice) that the Indulgence to *Engliſh* Merchants, and Foreign Mariners, is only to continue during the preſent War, tho' it were to be wiſh'd, not only that it were to be perpetual, but likewiſe that in Caſe of need, or according to each Man's Conveniency, it were allowable for *Engliſh* Maſters of Ships to employ as many Foreigners in their Service as they pleas'd, provided they reſided in *England*; where all reaſonable Encouragement ought to be given them above all Men in the World, to invite them to take up their Aboad amongſt us; for many Reaſons, ſome of which I have mention'd in this Treatiſe, where I have inſerted the Clauſe of the Act of Parliament for diſpenſing with part of the Act of Navigation 'till this preſent War be ended: Which I ſhall here briefly recapitulate, and add ſuch further Thoughts as ſhall ſeem proper for juſtifying my Aſſertion. *That it is the Intereſt of* England, *by all practicable Means, to encourage Foreign Mariners to ſerve in this Country, and live amongſt us.*

The main Objection of ſuch as are againſt entertaining Foreign Mariners in our Service, is, *That they would eat the Bread out of our own Mariners Mouths, and enrich themſelves with our Money.*

But to invalidate that I have already taken notice, that by entertaining Foreign Mariners, we leſſen the Strength of Foreign Nations, and the Conſumption of their Manufactures and Proviſions, *&c.* and on the other hand, advantagiouſly thereby augment our own in the moſt ſenſible part.

I have own'd that it would not be Policy in the *Engliſh* Parliament to ſuffer the *Engliſh* Trade to be driven in Foreign Bottoms, or in Veſſels belonging to, or commanded by Foreign Owners or Maſters: For then indeed it would be a very ſenſible Detriment to the Nation, and no leſs ſcandalous than prejudicial to us, to ſuffer our Buſineſs to be taken out of our Hands; and a conſiderable part of our Money to go unneceſſarily out of the Nation; and that eſpecially, if the Ships ſail'd from the Foreign Countries to which they might belong. But on the other hand, if the Owners and Maſter be *Engliſh*, reſiding in *England*, I don't think I hazard much by affirming, that we ſhall never ſuſtain any conſiderable Prejudice, by the Money the Mariners will carry out of the Kingdom; ſince 'tis certain, beyond all Contradiction, that Mariners will always prefer the Service that is moſt beneficial to them, in whatſoever Country it be; and beſides, if they ſhould leave us, few of them are ſo good

Husbands,

Husbands, as to ſave any conſiderable Matter to carry away. But there is no fear that they'll leave good Wages in *England*, to take worſe any where elſe; and I'm ſure we can never ſhew our Wiſdom ſo much in any thing, as in encouraging that Set of Men to ſtay amongſt us.

If it be objected, that the ſuffering and encouraging Foreign Mariners amongſt us, will diſcourage ſuch of Her Majeſty's Subjects, as might otherwiſe betake themſelves to that Employment, from meddling with it; I anſwer, that if that ſhould be, it will never prove any Detriment to the Nation; becauſe,

Firſt, If we have Mariners enough for the publick Service, no matter what Country Folks they be, as long as ours reap the Benefit of their Service, and they lay out what they get amongſt us.

Secondly, The more Foreigners come into our Service, the more the Strength of the Nation is augmented, and the better is its Safety ſecur'd by the Acceſſion of ſuch Foreigners; who tho' Aliens by Birth, yet are no leſs uſeful to us than natural Subjects; and who generally by marrying and ſettling among us, become *Engliſh*, and leave an *Engliſh* Iſſue.

Thirdly, The encouraging of Foreign Mariners, either in the Queen's, or in the Merchant Service, would deliver us from that intolerable Grievance of Preſſing for the Sea Service. Men, who being utterly Strangers to Marine Affairs, and ſerving only by Conſtraint, and contrary to their Inclinations, neither will, nor can acquit themſelves of their Duty, as down right Tarpaulins wou'd. And this, daily Experience demonſtrates; ſince 'tis evident that ſuch as have been bred to Sea, and have themſelves made choice of that way of living, are generally ſo addicted to it, that one wou'd think they had been born in't, and cou'd live no where elſe; whereas, nothing is ſo terrible to a Land Men, who has been once preſt into the Sea Service, as the Thoughts of going thither again.

Fourthly, The fewer of Her Majeſty's Subjects go to Sea, the more will be employ'd in the Manufactures, and other beneficial Buſineſs aſhore. Not that I am for diſcouraging my Country-men from going to Sea, for 'tis that Employment above all others, I would gladly have promoted and encouraged: But I ſay, if once the Navigation of *England*, was happily arriv'd to ſuch a Pitch, as to encourage great Numbers of Foreigners to come into our Service; ſuch of Her Majeſty's Subjects as ſhould not think it their Intereſt to go to Sea, wou'd not want Buſineſs in the Manufactures aſhore.

Tho' what I have offer'd upon this Subject, be in it ſelf ſo evident, that it needs not any further Proof: I ſhall draw from the Conduct of our potent Low Country Neighbours, one powerful Motive to enforce the Belief of what I ſay.

The World knows that a little more than an Age ago, the Republick of *Holland* was far from being arriv'd to the Pitch of Power and Grandeur it now is at; and if it be ask'd by what Means they have aggrandiz'd themſelves, 'tis plain, that their encouraging of

Trade

Trade and Navigation has made them *HIGH AND MIGHTY*. All Sailors are welcome to them, and they now encourage and entertain Sailors I believe out of moſt Countries in *Europe*; and the good Effect of that is viſible in this, that when they want Men for the Fleet, as ſoon as publick Notice is given of Orders being iſſu'd out to equip it, the number is immediately compleated without any Preſſing, for the Sailors are ſo regularly paid, and have Juſtice ſo exactly done 'em in every Point, that they had much rather ſerve the States than the Merchants.

And I my ſelf have ſeen ſo much of the good Management of our preſent Enemies the *French*, with relation to Marine Affairs, that I can't diſſemble the Uneaſineſs I am in, under the Apprehenſion that even they who owe their Riſe that way to us, ſhould at laſt out-do their Teachers, and turn our Maſters.

The *French* King by one Piece of Policy, takes generally care to have the Troops of his Houſhold (which he looks upon as the ſtrongeſt Barrier of his Kingdom) always compleat, and in good order; and that is by granting the Privileges and *Title of Gentlemen*, to ſuch, as ſerve there a certain number of Years; by which means many of his Subjects, who are very Ambitious of Titles and Dignities, are encourag'd to go and ſpend a good part of their Eſtates in his Service. Now ſince it will not be deny'd, that the *Engliſh* Navy is the ſtrongeſt Barrier the *Engliſh* Nation has, againſt its Publick Enemies; I think, that for encreaſing the ſtrength of the Navy, the Privilege of Naturalization might be granted by Act of Parliament to ſuch Foreigners as ſhould be willing to purchaſe that Benefit, by ſerving in the Fleet a certain number of Years; and that ſome more than ordinary Immunities ſhou'd be granted to Natives in the ſame Caſes, by which they might be encouraged to enter into the Publick Service at Sea, without any Compulſion: But of all this more in due time.

The next thing I ſhall take into Conſideration upon this Subject, is another Act, paſt in the Seſſions of Parliament held in the 7th and 8th Years of the Reign of the late King *William*, for the Encouragement and Encreaſe of Seamen, amongſt whom 'tis very well known by the name of the *Regiſter Act*. The Preamble of which is ſo remarkable, that it is well worth the tranſcribing, becauſe it fairly acknowledges two important Truths, of which it were to be wiſh'd, that all the Nation was duly ſenſible.

Anno ſeptimo & octavo Gulielmi III. *Regis.*

An Act for the Encreaſe and Encouragement of Seamen.

FOr aſmuch as the Strength and Safety of this, and other his Majeſty's Realms and Dominions, do very much depend upon the furniſhing and ſupplying of his Majeſty's Royal Navy, with a competent Number of able Mariners and Seamen, which may be at all times in a readineſs for that Service. And

And whereas the Seamen of this Kingdom, have for a long time diſtinguiſh'd themſelves throughout the World, by their Induſtry and Skilfulneſs in their Imployments, and by their Courage and Conſtancy manifeſted in Engagements for the Defence and Honour of their native Country. And for an Encouragement to them to maintain this their Ancient Reputation, and to invite greater Numbers of his Majeſty's Subjects to betake themſelves to the Sea, it is fit and reaſonable that ſome competent Proviſion ſhould be made that Seamen who by Age, Wounds, or other Accidents ſhall become diſable for future Service at Sea, and ſhall not be in a Condition to maintain themſelves comfortably, may not fall under Hardſhips and Miſeries, but may be ſupported at the Publick Charge, and that the Children of ſuch diſabled Seamen, and alſo the Widows and Children of ſuch Seamen as ſhall be ſlain, kill'd or drown'd in the Sea-Service, may in ſome reaſonable manner be provided for and educated, &c.

The Act further ſets forth, that whereas K. *William* and Q. *Mary* did give this Palace of *Greenwich* for an Hoſpital for diſabled Seamen and their Widows and Children, and did endow the ſame as in the Letters Patents, bearing date the 10*th* day of *September*, 1695, is expreſs'd—Be it enacted, *&c.* That all Mariners, Seamen, Watermen, Fiſhermen, Lightermen, Bargemen, Keelmen, or Seafaring Men, being natural born Subjects, or naturaliz'd, or made Denizens in *England*, and being between 18 and 50, and capable of Sea-Service, who ſhall willingly regiſter themſelves for the Service of the Royal Navy, ſhall have paid to them the yearly Bounty of 40 Shillings, whether they be in actual Service or not, (their Number not exceeding 30000, or if it be more than that Number, then the 30000 firſt enter'd to receive that Bounty) and none but regiſtred Seamen ſhall be capable of any Preferment in the Navy; with Power to ſuch regiſtred Seamen as ſhall be in long Voyages, to grant Aſſignments to their Wives or other Perſons, to receive one third of their Wages in their Abſence; and to the Executors of ſuch of them as die, upon Proof of their Death, to receive their Wages due, without ſtaying for the return of the Ship. And every Seaman ſo regiſtred ſhall receive twice as great a ſhare in Prizes, as another in the ſame Ship and Quality, not regiſtred, and be free of all Pariſh Offices, and from ſerving upon Juries or Inqueſts, or in the Militia: And ſuch regiſtred Seamen as ſhall be wounded or diſabled, or become incapable of further Service, ſhall be placed in the Hoſpital aforeſaid, and provided for during their Lives; and likewiſe the Widows and Children of ſuch as ſhall be kill'd or drown'd in the Service, ſhall be placed in the ſaid Hoſpital as far as the Revenue thereof will extend, and according to the Regulations and Conſtitution of the aforeſaid Hoſpital

No Seamen who deſerts the Service, to enjoy theſe Privileges.

No Perſon not being ſo regiſtred, to be capable of being a Brother of *Trinity-Houſe* of *Deptford ſtrond*, after the Expiration of 25 Years, reckoning from the 20*th* of *March* 1696. All

All Seamen whatſoever to allow ſix Pence monthly out of their Wages, for the better Support of that Hoſpital.

All Seamen ſo regiſtred, and afterwards changing the Place of their Abode, to bring a new Certificate of their new place of Reſidence.

This Act (which contains ſeveral other Clauſes, which I omit, as not being material to my preſent Purpoſe) was confirm'd in the following Seſſions of Parliament by another entitl'd, *An Act to enforce the Act for the Encreaſe and Encouragement of Seamen*, and by which it is further enacted, that ſuch Seamen, as then being above the Age of 50 Years, and had faithfully ſerved in his Majeſty's Navy the 7 Years laſt paſt, ſhou'd be allow'd to be regiſtred; but that none above that Age ſhould be admitted to be regiſtred after the 16*th* Day of *April* 1699, without giving ſufficient Reaſons for their delaying it ſo long That for the better and eaſier collecting of the 6*d. per Menſem*, it ſhould be lawful for the Officers appointed for regiſtring of Seamen, to ſummon before them, and examine upon Oath, all Maſters of Ships, concerning the Number and Quality, and Wages of their Mariners, and the time of their Service, and oblige them to pay the 6*d. per Menſem* out of the ſame; which the ſaid Maſters are required to pay under the Penalty of ten Pounds: *Quakers* to take the Solemn Affirmation in ſtead of an Oath.

It cannot be deny'd, but theſe two Acts propoſe ſome very remarkable Encouragements for Mariners; but as long as the Acts are without Effect, and the Rewards only promiſed, without ſo much as any Appearance of Performance; the Mariners, who wiſely prefer a Bird in the Hand to two in the Buſh, will be but little affected with fair Words.

Where is the Man that will deny that the Navy of *England* is the Principal ſtrength of *England?* How does it then come to paſs, that the Seamen, who are the Riches and Treaſure, as well as the Safety and Defence of the Nation, ſhould be neglected and diſcourag'd by the Nation?

The Parliament propoſes certain Rewards and Advantages to ſuch Mariners as will voluntarily enter themſelves into the Publick Service, and the Sailors not having in ten Years time taſted the Fruits of their Labour, or enjoyed any of the promiſed Beneſits, they now cry out, that 'twas only a Decoy to keep them always in a readineſs to venture Life and Limb for the Publick, with as little proſpect of any Reward as they ſhould have had in the private Service of the Subjects, where too, they would have been better and more liberally paid: And how far theſe, and many other Hardſhips they endure, do contribute to render the Manning of the Royal Navy, ſuch a difficult and ungrateful Task, is what I may have occaſion to conſider more at large in another place, where I may perhaps lay a Scheme for removing all theſe Inconveniencies.

When I was writing this Treatiſe, I ſaw among other Publick Prints in a Coffee Houſe, the *Caſe of the Regiſtred Seamen*, intended I ſuppoſe,

I ſuppoſe, for the Conſideration of the Parliament then ſitting, and ſetting forth the Hardſhips they ſuffer'd, and the Injuſtice done them in detaining the promiſed Reward of 40 *s. per Ann.* And indeed I cannot but concur with them in this Point, that an Act of Parliament being made and confirmed by another Act, promiſing certain Advantages to the Mariners of *England* upon certain Conditions; they having performed their Part, it is hard they ſhould be deprived of the expected Reward: And it is yet harder, that inſtead of being Gainers they ſhould be Loſers by that Act, and have 6 *d. per Menſem* ſtopt out of their Wages, which they earn with ſo much Toil and Danger, and not receive one Farthing of the 40 *s.* which ought to be no leſs regularly paid to them, than they pay the 6 *d. per Menſem*, for the encreaſing of the Fund for *Greenwich* Hoſpital; which certainly ought to be improv'd with the utmoſt Care and Diligence for the Benefit of diſabled Mariners, for which it was intended: That others ſeeing the care that is taken of ſuch as have been maimed in the Service of their Country, may be encourag'd to venture their Perſons on the ſame Bottom; being aſſured that in caſe of any Misfortune they will be comfortably provided for.

Infinite are they other Complaints of the Mariners with regard to their want of Pay, badneſs of Proviſions, the little Care is taken of the Sick and Wounded, the Negligence or Ignorance of ſome of their Surgeons; their being turned over after long Voyages from Ship to Ship, and ſome of 'em ſcarce allow'd to ſet their Foot aſhore in ſeveral Years time, and a great many other things of this Nature.

Let not the World miſtake me, I don't here pretend to eſtabliſh my ſelf a Cenſor over the Actions of other Men, nor an Accuſer of Gentlemen I do not know. I only mention ſuch Complaints as the general Voice of Seafaring People, or at leaſt ſuch as Sail in the Navy exclaim againſt, nor can indeed ſay that I believe them all to be groundleſs. It is not my Buſineſs to determine where the Fault lies, nor ſhall I attempt to do it, except I my ſelf could pretend to ſuch a certain Knowledge of the Thing, that I might fairly make it appear without doing any Injuſtice to the Party concern'd. This Diſcourſe is not intended as a Satyr againſt any Body concern'd in the Adminiſtration of our Naval Affairs. I never had any thing to do their my ſelf, and don't know whether ever I ſhall, nor do I know any of the Gentlemen imploy'd in that Service, nor have ever received any injury from them, or any of them; and ſo 'tis plain, that what I have ſaid, or may ſay upon that Subject, does only proceed from my earneſt deſire to ſee Abuſes of that Nature rectify'd, if any be.

I don't love to be unmannerly, and I mortally hate all indirect Inſinuations of Oppreſſion and Injuſtice, againſt Perſons upon whom I cannot prove the Crimes, of which I endeavour to make them be believ'd guilty, for that is no better than felonioufly and maliciouſly murdering a Man's Reputation, without being ſo juſt to

the Party injur'd, as to expoſe one's ſelf to his Reſentments, which is a Piece of Baſeneſs ſo unbecoming the Character of an honeſt Man, that the very Idea of it muſt excite the utmoſt Horror and Averſion in any Breaſt that is not given up to Spight and Malice, and ſuſceptible of all manner of Villany.

As to the irregular Payment of the Royal Navy, I ſhall have occaſion to ſpeak to that hereafter: And as to the badneſs of Proviſions which has lately made ſo great a Noiſe in the World, 'tis doubtleſs worth the Nation's while to enquire into the matter, and by the exemplary Puniſhment of ſuch as ſhall be found guilty (if any ſuch thing be) to deter others from ſuch dangerous Practices in time to come.

Moſt certainly the Mariners are the moſt uſeful of the *Engliſh* Nation, of which they are both the Security and the Riches: 'Tis by them our Treaſure is acquir'd, and they are the greateſt Security of it when 'tis got, and of the Liberties and Religion of the *Engliſh* Nation, which cannot be ſo well defended as by them, and therefore I think it is but reaſonable that due care ſhould be taken to manage the Allowance the Government gives them for their Service to their beſt Advantage, and in Caſe of the Malverſation of any of the Officers to whom the Diſpenſation of the Naval Affairs is committed, to aſſign ſome certain Method for the ſpeedy and effectual redreſſing of all the Grievances of the Mariners.

And if it was to be enquir'd by what Means the *French*, who leſs than half an Age ago, were ſo far inferior to us in Naval Power, that the *Engliſh* in thoſe Days did not dream of having them ſo quickly their Competitors in Marine Grandure; if, I ſay, an Enquiry were made by what means they have ſo far improv'd their Naval ſtrength, that when the Fleet of *England* and *Holland* is not there, their Squadrons keep all the Princes and States of *Italy* in awe, and the *Venetians* ſuffer themſelves to be bully'd by their Frigots in the heart of the *Adriatick* Gulph, which that Republick holds to be as much her own as the City of *Venice* it ſelf; 'tis plain that all that is owing to nothing but their admirable Management and Oeconomy in Naval Affairs, and the great Encouragement they have given in every reſpect to Trade and Navigation, which is the only ſure Foundation for ſupporting a potent Fleet of Ships of War. And I believe they may ſafely challenge the whole World to produce ſuch an accompliſh'd Syſtem of Naval Laws as thoſe, of which I have given a Tranſlatian in the former part of this Treatiſe; by the Equity and Plainneſs of which, the Subjects of that Kingdom are mightily encourag'd to betake themſelves to the Sea. This is not any ways intended as an undeſerv'd Penegyrick or Complement either to the *French* King, or his Subjects, in prejudice of our own Country, but rather to excite the *Engliſh* Nation to follow the laudable Example of the *French*, in aboliſhing all Cuſtoms and Laws whatſoever, that appear to be detrimental to the Trade of the Nation, without any regard to their Antiquity, to which we ſeem in this

Country to have as great a Reſpect, as if *venerable Antiquity* were a ſufficient Apology for the moſt unreaſonable Practices in the World; whereas 'tis certain that Errors are never the better for being Ancient: And if ever our Enemies ſhould get the better of us, they would not have reſpect enough for the Antiquity of our Maxims to hinder them from making Innovations that would not ſuit our Stomachs ſo well as thoſe we might now much more conveniently make our ſelves. And I am verily perſwaded, that if ever we ſee the Marine Affairs of *England* eſtabliſh'd upon ſuch a ſolid Baſis of Law, Juſtice, Equity and Policy, as thoſe of *France* are now, we ſhall quickly reap ſuch Advantages by it, as will in a little time make us amends for all our former Miſcarriages.

Nor let the World miſtake me, and imagine that I'm for impoſing unreaſonable Limitations upon the Admiralty: On the contrary, I would rather have the Power and Juriſdiction of the Admiral and his Lieutenants extended, and have the Deciſion of all Maritime Cauſes to be left to them alone; that by aſcertaining the Power and Extent of that Juriſdiction, the Subject may know to whom to apply for Juſtice, whether in Caſe of Differences ariſing upon Marine Affairs between Merchants, *&c.* or in other Affairs relating to the Publick Service of the Nation; for which no more noble and valuable Pattern can be propos'd than the aforeſaid Syſtem of the Sea Laws of *France*, which with ſome few Alterations for adapting them to the Genius and Circumſtances of the *Engliſh* Nation; if enacted by an *Engliſh* Parliament, and made *Engliſh* Laws, would prove the moſt effectual Means imaginable to make the Nation happy, and would be ſo far from reſtraining the Power and Prerogative of the Admiralty, that they would very much enlarge it; for the truth of which I appeal to the Gentlemen of the Admiralty themſelves, when they ſhall be pleaſed to peruſe them.

As for the Method obſerv'd in providing for the Sick and Wounded Mariners of the Navy of *England* while a Ship-board, as I never had the Honour to ſerve in the Navy my ſelf, I can't tell how far I may be miſinform'd; but I'm ſure I have heard ſome of the Mariners make grievous Complaints about it, and having been at the Pains to make an Enquiry into the Truth of that Matter, have heard it confirm'd by Gentlemen, whom I have reaſon to believe.

I don't care to trouble the World with ungrateful Stories of the ill Uſage of our ſick and wounded Sailors aboard the Ships; but I hope it will not be taken amiſs that I give my Opinion how they ought to be treated, and how the *French* Mariners actually are treated in the Service of their Prince.

In every *French* Man of War, they have an *Infirmary*, or Conveniency for the Accommodation of the ſick and wounded, till they can have an Opportunity of conveying them to Hoſpitals or other Places for their Recovery.

If there be any freſh Meat in the Ship, or if it can be purchaſed at any Rate, the ſick Men are allowed at the Publick Charge as much of it as the Doctor thinks they may ſafely take, with the like Allowance of good Wine, and all other Conveniences, of Bedding, *&c.* and if my Memory does not mightily deceive me, they are ſo very tender of the ſick Mariners, that while they remain in the Infirmary they are furniſhed at the Publick Charge with Sheets to lie in.

Whereas our Sailors (if they be not the groſſeſt Liars imaginable) when they are ſick will indeed be allowed a bleeding or a little Phyſick, if the Doctor's Leiſure will permit him to do them that Favour (for by the way they make huge Complaints of ſome of their Surgeons) but for the more effectual rendring of theſe Remedies fruitleſs, they muſt eat a Belly-full of ſalt Beef or ſalt Pork, and hard Bisket, and drink may be ſower ſmall Beer or ſtinking Water, and lie amidſt the inſupportable Noiſe of the Ship in their own naſty Hamacks or Cabins, if they have any, and if none, upon the Decks or the Cables, and ſo they are in a hopeful way of Recovery.

And as to the Sea Surgeons, I have heard grievous Complaints made againſt them by the Mariners, and I have likewiſe heard them complain heavily of their being very ill uſed by the Navy Board.

The Mariners ſay that ſome of their Doctors are ſo very careleſs of the Sailors, that if a Man is taken never ſo ill, they won't ſtir from their Bowl of Punch to go to ſee him, and as it often happens that before the Punch is out his Doctorſhip has loſt his Senſes, the poor Wretch muſt lie in Miſery till the Doctor has ſlept himſelf ſober, eſpecially where the nature of the Diſtemper happens to be above the Skill of the Mates.

One Story I once heard averr'd by a Gentleman, with whom I happened accidentally to be in Company, which if true, as I have no reaſon to believe it otherwiſe, the Surgeon ought to have been proſecuted and ſhot to Death as a Traytor and Murderer, being no leſs guilty of the Death of one of the Queen's Subjects, who was at that time actually under his Care, than if he had killed him with his own Hands.

A Soldier of the Marines having been ſuddenly taken ill of ſome violent Diſtemper, which threw him into an extraordinary Pain and Agony, ſome of his Comrades applied immediately to the Doctor, begging him to go and endeavour to procure the Man ſome Eaſe, but he being otherwiſe occupied, refuſed downright to go, till being requeſted a ſecond time, and the extreme Miſery in which the Perſon was repreſented to him, he bid the Perſons that were ſent to him tell the Man to come up, but one of them being a Serjeant of the Company to whom the ſick Soldier belong'd, replying to the Surgeon, that the Man was in ſuch a painful and uneaſy Condition, that it was not poſſible to bring him up, the other gave him very inſolent and impertinent Language, and abſolutely refuſed

refuſed to trouble his Head about the Matter; and after ſeveral other fruitleſs Meſſages to the ſame purpoſe, tho' I think one of the Officers of the Marines uſed his Endeavours to perſuade the Surgeon to viſit the poor Soldier, he ſtill perſiſted in his Refuſal, and uſed the Officer as impertinently as the Serjeant, ſo that at laſt the Man died in the Extremity of his Pain, while the Doctor was very buſy over his Bowl of Punch; and this being only a violent ſudden Fit that came upon a Man, who was otherwiſe in perfect Health, I appeal to any indifferent Perſon whether the Surgeon, whoſe Buſineſs it is to adminiſter the neceſſary Remedies to ſuch as fall ſick in the Ship, ought not to be hang'd for putting ſo ſmall a Value upon the Life of any Perſon in the Queen's Service, and under his Care, as to deny ſo much as a Viſit in their Extremity.

Several other Circumſtances and Particularities of this Story I have neglected to inſert, as not remembring them very well, it being now Two Years ſince I heard it, but this I am ſure of, that what I have omitted would only have made the Surgeon's Fault look blacker, I having related it a great deal more favourably for him than it was told me.

Now if this, or any ſuch Practices, be ſuffered in the Fleet, as ſome do confidently affirm there are, it is not to be denied but the Mariners and the Queen too are very groſly abuſed, and 'tis pity ſuch Diſorders ſhould not be inſpected into.

Others they tell me there are in the Fleet ſo abſolutely ignorant of their Buſineſs, that they are not fit to be truſted with the Lives of her Majeſty's Sailors; and as to that I muſt ſay, 'tis odd the Perſons appointed for their Examination ſhould have ſo little Regard to the Safety end Proſperity of the Queen and Kingdom, as to ſuffer Men who are not capable of that Poſt to obtain Warrants to ſerve as Surgeons in the Fleet, where none but Perſons of extraordinary Skill and great Experience out to be admitted.

But to this it is anſwered on the other hand, that the Encouragement given to the Surgeons of the Fleet is ſo very ſmall, that few Men of any Capacity think it worth their while; and indeed if what they ſay themſelves be true, that the late Method taken by the Gentlemen of the Hall in *London* for oppreſſing them in the providing of their Drugs, lies ſo heavy upon them, that they can't ſave enough of their Summers Wages to ſubſiſt comfortably while aſhore, that Matter deſerves to be taken into Conſideration; for the only way to be well ſerved is to pay well.

They tell me, that whereas formerly they were allowed to furniſh their Cheſts themſelves as they thought moſt convenient, they are now provided by the Gentlemen of the Hall at a very extravagant Rate, and not only ſo, but that if a Ship goes out upon any Expedition, and is but a Month or two at Sea, tho' there has been little or no Conſumption of the Surgeons Stores, the Cheſts muſt be renewed at her coming in, allowing but a very unconſcionable

Price

Price for the Drugs return'd, and reckoning thoſe they put in afreſh at their ordinary Price; ſo that in ſome Ships, they put the Surgeons to a very great and unneceſſary Expence in Drugs.

This they ſay oblig'd the Surgeons of the Navy, or the greater part of them to reſign, or propoſe to reſign to the Queen, the 2 *d. per Menſem*, they have out of each Man's Pay, and which ſeems to have been intended for defraying the Charge of the Medicines, provided they be furniſh'd in time to come at her Majeſty's Expence: But this fair Offer being rejected, thoſe of the greateſt Capacity amongſt them, not getting in the Service wherewithal to live comfortably neither on Ship board nor aſhore, rather chuſe to betake themſelves to the Service of the Merchants, or live by their Employments at Land. And if this be indeed their State, I think no body can blame them; for 'tis no way reaſonable that the Gentlemen of the Hall, who would not care to ſhare with the Surgeons of the Fleet, the Toil, Fatigue, and Perils, to which they are expoſed at Sea, ſhould eat the Fruit of their Labours, and reap all the Beneſit of their Induſtry, by means of ſuch unconſcionable Exactions. For to me, nothing appears more reaſonable than the Demands of the Surgeons of the Navy, that either they may be permitted to provide their own Cheſts themſelves, allowing their Drugs and Medicines to be ſurvey'd by two or more ſufficient Perſons appointed by the Government for that purpoſe, and approv'd by them, or elſe that they be allow'd to reſign the 2 *d. per Menſem* to the Gentlemen of the Hall, and let them furniſh the Medicines to the Satisfaction of the Surgeons.

And now as to the cruel Practice of turning Mariners over from Ship to Ship, and that even after long Voyages, ſo that ſometimes they're hardly ſuffer'd to ſet their Foot aſhore, at leaſt not in *England*, for ſeveral Years together, and ſo after a long Abſence from their Native Country, from their Friends and Acquaintance, and from their Wives and Families, and all that is dear and valuable to Men, they are again hurry'd away in ſight of the long deſir'd Port, and not ſuffer'd to ſolace themſelves in any manner, after the Fatigue of a tedious Voyage: Can any thing be more unjuſt or provoking? Or why ſhou'd it be wonder'd at, that wherever they find occaſion to deſert, great Numbers of them ſcruple not to do it, even to the manifeſt Danger of their Lives, and rather chuſe to loſe the Wages due to them, than to remain in a continual Slavery, from whence they can't have any Hopes of an entire Delivery, before the Concluſion of a Peace, which the Lord knows when will happen.

And that Uſage, with ſome other things of that Nature, beyond all Contradiction, is the reaſon that we daily hear of the Deſertion of ſo many of our Seamen in the *Weſt Indies*, and other Places, where they prefer the barbarous and infamous Life of Pirates to the Station of Mariners of the Royal Navy of *England*, where they complain that they ſuffer Hardſhips and Injuſtices not to be heard of elſewhere, which oblige them to take ſuch deſperate Courſes.

And

And here again I must be forc'd to make another Apology, and beg the Reader may not put a finister Interpretation upon this Discourse, which is not intended as a Satyr upon the Government, nor any part of it, but only as a fair and impartial Representation of the State of the Mariners, the better to excite the Persons in whose Power it is, to harken to such Proposals as may be offer'd for putting an end to those Disorders.

And if a Method may be found out, not only for the more easy and effectual manning of the Navy, without that scandalous and oppressive way of pressing promiscuously Seamen and Landmen into the Sea Service, which is a Grievance not to be heard of even under the arbitrary and despotick Government of *Lewis* XIV. but also to make the publick Service desirable to the Sailors, as it certainly would be, if the necessary Measures were taken to render it so; I hope it won't be taken amiss that I presume to offer my humble Conceptions upon that Subject; in the Consideration of which, I have possibly spent as much of my time, as together with the Remarks I have made upon the Management of the Marine Affairs in some other places, may render me capable to hint at some things, which, if duly considered, may not appear to be unreasonable.

And tho' I have not Vanity enough to imagine that any thing I may be able to purpose, will be so far taken notice of, as to produce the blessed Effect of having all the Inconveniencies of our Naval Administration remov'd, I hope it may excite some abler Pens to convince the Nation of the Necessity of such an Reformation.

It is not that I pretend to accuse the honourable Gentlemen to whom, under his late Royal Highness's Protection, the Dispensation of the Marine Affairs is committed, either of Dishonesty, Ignorance, or Negligence; they may acquit themselves of their Duty with all imaginable Exactness and Fidelity, and yet the Nation may suffer, not by theirs, but the fault of the Constitution.. They have a Commission to act and manage all Affairs to the best Advantage, according to the ancient Custom, or according to the present Regulations of the Navy of *England*, and possibly they may exert themselves to the utmost of their Power for the Benefit of the Nation, and perform the Functions of their Offices in every thing like Men of Honour and Integrity, and yet the Grievances complain'd of may remain, because it is not so much the Fault of those imploy'd in the Navy, as of the Original Laws and Constitutions of the Navy, that those Inconveniencies are owing to.

There might have been Reasons for establishing certain Practices that are now in force, when these Practices were first establish'd, but now the Reasons may cease, and so of consequence should the Regulations to which they gave Birth. But we are so jealous of any thing perform'd by our Ancestors, that we think it as a Sacrilege to make any Alteration or Innovation in their Institutions tho' never so useless, and seem to be such blind Adorers of Antiquity, that we have no Regard, neither for the present, nor for futurity;

whereas we ſhould not be ſo ſolicitous about the Method our Fathers follow'd, as the moſt convenient in the ſeveral Ages in which they liv'd, as to conſider what are the fitteſt Meaſures to be taken in our preſent Circumſtances, and with regard to the Policy of our Neighbouring, and all other Nations, which ſhould be always in our Eye, is as far as it may affect our Security and Welfare, and more eſpecially in that which concerns the Advantage of our Trade and Navigation, which is the Baſis and Foundation of our Power and Grandure, and conſequently of our Religion and our Liberty, and all our Civil Rights and Privileges, as *Engliſhmen* and *Chriſtians*.

No Nation in *Europe* was formerly more addicted to their ancient Laws and Conſtitutions, and eſpecially to their ancient Cuſtoms and Notions, as to Trade and Commerce than the *French*, and none are leſs ſo now. For (as I have already ſeveral times obſerv'd) that Politick Nation, finding the Difficulties under which the Traders of their Country labour'd by reaſon of the unaptneſs of their Laws for Commerce and Navigation, immediately made the King a Surrender of them by wholeſale, beſeeching His Majeſty, in lieu of theſe ill digeſted, and tedious, and troubleſome Conſtitutions, to bleſs them with a New Body of Mercantile and Naval Laws, by which his Subjects might be encourag'd to venture their Eſtates in Commerce, whereby they have incredibly improv'd their Marine Strength. And that we ſhould be the only People, that after raiſing our ſelves to ſo high a Degree of Glory, Power, and Renown, principally by our Naval Atchievements, ſhould again ſuffer our ſelves to ſink ſo far below our priſtine State, merely becauſe as if we were weary of our Greatneſs, and of the Advantages that attend it, and did not think them worth the keeping; we won't be at the Pains to rectify a few Abuſes, and barter our obſolete and antiquated Statutes, for a new and more exact and uſeful Body of comquitable Regulations, is what I cannot eaſily apprehend. Shall *Great Britain* only, which is bleſt with all Conveniencies and Advantages that could be wiſh'd for rendring it capable of a flouriſhing Trade? Shall we alone, I ſay, neglect that Miſtreſs, courted by all the Nations under the Sun, and deſpiſed by none but us, who ought to be her moſt aſſiduous and moſt induſtrous Suitors, as having hitherto moſt largely taſted of her Favours?

I have thus far only repreſented the Grievances of the Sailors, and the Inconveniences neceſſarily reſulting from our preſent way of managing our Marine Affairs; and now it's time to think of the moſt effectual Means of removing them, which is ſo great a Work, that I hardly dare be preſumptuous enough to imagine that I ſhall have the Happineſs to contribute any thing towards the bringing about the mighty Deſign, but yet, conſidering how mean and ungenerous a thing it is for a Man to ſtifle a Project, which if excepted, he thinks would prove beneficial to his Country, I have adventur'd, amongſt the

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Croud of other Writers to publiſh theſe my Sentiments upon this important Subject, and hope the Readers will be ſo impartial as not to paſs a raſh Cenſure upon any thing I have ſaid, ſince 'tis plain my only Aim is the Publick Good.

I ſhould indeed have been deſirous before I appear'd in publick upon this Subject, to have ſeen the Opinion of a certain Author, who has already hinted at ſeveral things with regard to the Trade and Commerce of this Nation, which in my humble Opinion are very reaſonable and judicious; and tho' we may not be of the ſame Mind in ſome Points, I muſt freely acknowledge that his Thoughts about our In-land Trade are ſuch, that I think no reaſonable Exception can be made againſt them; and I have read his Papers upon that Subject with a more than ordinary Attention.

I can't tell how far a Parity of Sentiments in any thing may contribute to heighten or confirm the Eſteem one Man may have of another's Performances, but I muſt ſay I was very agreeably ſurprized ſome Time ago, when taking up the Paper, in which he begins regularly to diſcourſe of our Inland Trade, I found he had uſed the very ſame Method, and the ſame Words too, or ſuch as are ſynonimous to them in the *Engliſh* Language, which I had uſed more than Three Years ago in compoſing for my own private Uſe a ſhort Tract, I thought fit to write in *French*, of the Trade of *Bourdeaux*, ſome part of which a young Merchant of this City begged of me in Manuſcript, and I having the reſt by me ſtill, the World may hear more of it in due time.

And as I always had a very great Opinion of that Gentleman's Performances, and eſpecially of his Notions upon Trade, ſince the reading of that Paper I have put a greater Value upon my own Manuſcript than ever I had done before, and therefore was the more deſirous to have ſeen what Methods he would have propoſed for removing the Inconveniences attending our preſent Way of managing our Marine Affairs.

Not that I intended to have eſtabliſhed my own Reputation upon a borrow'd Foundation, for 'tis not my Inclination to rob my Neighbours of their Due, and beſides that Paper is ſo univerſally read by ſuch as will moſt readily peruſe my Book, that the Theft would have eaſily been diſcovered, and I as certainly have been ridicul'd for retailing other Peoples Wares.

I cannot eaſily be perſuaded, but that if proper Means were uſed to make it ſo, the Publick Service would be as grateful to our Mariners in *England* as it is in *France* and *Holland*; our Seamens Wages, if I be not miſtaken, are much about the ſame matter with thoſe allowed by our Neighbours, or but little inferior, but indeed I can't ſay but the latter are better and more duly paid; and here I muſt add, that it is a very hard Matter that it ſhould be ſo, for this moſt neceſſary Part of the Nations Service, and that Money ſhould be wanting for that only

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Crowd

Croud of other Writers to publiſh theſe my Sentiments upon this important Subject, and hope the Readers will be ſo impartial as not to paſs a raſh Cenſure upon any thing I have ſaid, ſince 'tis plain my only Aim is the Publick Good.

I ſhould indeed have been deſirous before I appear'd in publick upon this Subject, to have ſeen the Opinion of a certain Author, who has already hinted at ſeveral things with regard to the Trade and Commerce of this Nation, which in my humble Opinion are very reaſonable and judicious; and tho' we may not be of the ſame Mind in ſome Points, I muſt freely acknowledge that his Thoughts about our In-land Trade are ſuch, that I think no reaſonable Exception can be made againſt them; and I have read his Papers upon that Subject with a more than ordinary Attention.

I can't tell how far a Parity of Sentiments in any thing may contribute to heighten or confirm the Eſteem one Man may have of another's Performances, but I muſt ſay I was very agreeably ſurprized ſome Time ago, when taking up the Paper, in which he begins regularly to diſcourſe of our In-land Trade, I found he had uſed the very ſame Method, and the ſame Words too, or ſuch as are ſynonimous to them in the *Engliſh* Language, which I had uſed more than Three Years ago in compoſing for my own private Uſe a ſhort Tract, I thought fit to write in *French*, of the Trade of *Bourdeaux*, ſome part of which a young Merchant of this City begged of me in Manuſcript, and I having the reſt by me ſtill, the World may hear more of it in due time.

And as I always had a very great Opinion of that Gentleman's Performances, and eſpecially of his Notions upon Trade, ſince the reading of that Paper I have put a greater Value upon my own Manuſcript than ever I had done before, and therefore was the more deſirous to have ſeen what Methods he would have propoſed for removing the Inconveniences attending our preſent Way of managing our Marine Affairs.

Not that I intended to have eſtabliſhed my own Reputation upon a borrow'd Foundation, for 'tis not my Inclination to rob my Neighbours of their Due, and beſides that Paper is ſo univerſally read by ſuch as will moſt readily peruſe my Book, that the Theft would have eaſily been diſcovered, and I as certainly have been ridicul'd for retailing other Peoples Wares.

I cannot eaſily be perſuaded, but that if proper Means were uſed to make it ſo, the Publick Service would be as grateful to our Mariners in *England* as it is in *France* and *Holland*; our Seamens Wages, if I be not miſtaken, are much about the ſame matter with thoſe allowed by our Neighbours, or but little inferior, but indeed I can't ſay but the latter are better and more duly paid; and here I muſt add, that it is a very hard Matter that it ſhould be ſo, for this moſt neceſſary Part of the Nations Service, and that Money ſhould be wanting for that only

'Tis pity that we, who upon many extraordinary Emergences have found Means to raiſe in a little time very conſiderable Sums of Money, ſhould always come ſo unaccountably ſhort in this, that our Mariners are for the moſt part forced to diſpoſe of their Tickets at a very extravagant Abatement, ſo that the one fourth, and ſometimes a greater Part of the Money, upon which their Families ſhould ſubſiſt, is eaten up by the Extortion of the Stock-Jobbers, who make it their common Practice to prey upon the Neceſſity of ſuch whoſe Circumſtances can't allow them to wait the Call of their Ships.

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Additional DISCOURSE

OF THE

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O F

INSURANCES *and* BOTTOMRY,

AND OF

The Cuſtom of Merchants, and the Practice of the City of *London* in theſe Affairs, with Copies of all the different ſorts of Policies and other Acts relating thereunto.

AS ALSO

The Cuſtom of ſeizing of ſuſpected Ships in time of War, intermix'd with the late Orders or Declarations of Council with relation to the *French* and *Spaniſh* Trade.

To which are ſubjoin'd

The ſeveral Acts of Parliament relating to Shipping, *&c.* ſuch as the Navigation Act, and ſome others, with neceſſary Obſervations and Remarks, concluding with the late Proclamation concerning the Signals between Merchant Ships and their Convoys.

COnſidering how neceſſary it is for all Merchants and Dealers, eſpecially in Time of War, to be perfectly well inſtructed in the Method and Law of *Inſurances* and *Bottomry*, and obſerving

that amongst all the *English* Authors who have writ upon Trade, not one has given any positive and certain Account of those Affairs which might be absolutely depended upon, notwithstanding what I have already said concerning it, I have thought it necessary, for rendring this Book compleat, to subjoin a brief Discourse upon that Subject, together with Copies of Policies of Insurance, and Bonds of Bottomry, of all the different sorts, and I am pretty well assured that there has been nothing hitherto published of that nature either so concise or so full and satisfactory as this.

And after that I shall take occasion to add a short Discourse concerning the searching and seizing of Merchant Ships in Time of War, and concerning Wrecks, to which I shall subjoin the Navigation Act, and some others made since concerning the building of Ships in *England*, with suitable Reflections upon them, and last of all shall come in the late Proclamation about Signals.

The Reader may remember that I have elsewhere defin'd a Policy of Insurance to be a Contract, by which the Insurer obliges himself, in Consideration of a certain *Præmium* or Reward by him received, to take upon him the Adventure and Risque therein specify'd, and in Case of Loss to pay the Sum insur'd to the Assuree or Person who paid him the *Præmium*.

And that the Reader may be the more naturally led to the thorough understanding of this Matter, I shall first explain the different sorts of Insurance, and after inserting the Forms of several Policies, shall instruct him in the Method used for the Recovery of the Sums insured, in Case of Loss of the Effects.

Insurance is either publick or private; the difference between the publick and private Insurance is only this, that whereas the first is done at the publick Office, the latter is agreed upon between Merchant and Merchant in private; and as for the Policies of that nature, you may see a Form of them in the preceding Part of this Work.

All Insurances, whether publick or private, must be either upon a Ship or upon Goods, or upon Ship and Goods, setting aside Insurances upon Houses, and other Things of that nature, as being foreign to my Design, which is only to speak of such Insurances as daily occur in the way of Trade.

However 'tis to be observ'd, that any Person that lends Money upon Bottomry, may insure the same, with the Addition of a Clause, of which I shall take notice at the End of the following Policy.

The

The Form of a Policy of Insurance upon Ships only.

IN the Name of God, Amen. *A. B.* of *London* Merchant, as well in his own Name as for and in the Name and Names of all and every other Person and Persons to whom the same doth, may, or shall appertain, in part or in all, doth make Assurance, and causeth himself, and them, and every of them, to be assured, lost or not lost, at and from *London* to *Lisbon* in *Portugal*, and at and from thence back to *London* upon the Body, Tackle, Apparel, Ordnance, Munition, Artillery, Boat, and other Furniture of and in the good Ship or Vessel called the, *&c.* Burthen, *&c.* Tuns, or thereabouts, whereof is Master under God in this Voyage, *&c.* or whosoever else shall go for Master in the said Ship, or by whatsoever other Name or Names the same Ship, or the Master thereof, is or shall be named or called, beginning the Adventure upon the said Ship, *&c.* from and immediately following the Day of the Date hereof, * and so shall continue and endure until the said Ship with her said Tackle, Apparel, *&c.* shall be arrived at *Lisbon*, as aforesaid, and during her Abode and Stay there, and further, until the said Ship with all her Tackle, Apparel, *&c.* shall be arrived back at *London*, and hath there moored at Anchor 24 Hours in good Safety; and it shall be lawful for the said Ship in this Voyage to proceed and sail to, and touch and stay at any Ports and Places whatsoever, † especially at, *&c.* without Prejudice to this Assurance; the said Ship, *&c.* for so much as concerns the Assureds, is and shall be rated and valued at Sterling, without farther Accompt to be given by the Assureds for the same. Touching the Adventures and Perils which we the Assurers are content to bear, and do take upon us in this Voyage, they are of the Seas, Men of War, Fire, Enemies, Pirates, Rovers, Thieves, Jettezons, Letters of Mart and Counter-mart, Surprizals and Takings at Sea, Arrests, Restraints and Detainments of all Kings, Princes, and People, of what Nation, Condition, or Quality soever, Barratry of the Master and Mariners, and of other Perils, Losses and Misfortunes that have or shall come to the Hurt, Detriment or Damage of the said Ship, *&c.* or any

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* *If the Ship be sailed towards any foreign Port, and the Owner would insure her back again, then the Adventure to begin from the time of her Arrival there.*

† *When design'd to touch at any Port in the Voyage.*

Part

Part thereof. And in Case of any Misfortune, it shall be lawful to the Assureds, their Factors, Servants, and Assigns, to sue, labour, travel for, in, and about the Defence, Safeguard, and Recovery of the said Ship, *&c.* or any Part thereof, without Prejudice to this Assurance, to the Charges whereof we the Assurers will contribute each one according to the Rate and Quantity of his Sum herein assured. And it is agreed that this Writing or Policy of Assurance shall be of as much Force and Effect as the sure Writing or Policy of Assurance heretofore made in *Lombard-street*, or elsewhere in *London*. And so we the Assurers are contented, and do hereby promise and bind our selves each one for his own Part, our Heirs, Executors, and Goods, to the Assureds, their Executors, Administrators, and Assigns, for the true Performance of the Premises, confessing our selves paid the Consideration due to us for this Assurance by Mr. *A. B.* at and after the Rate of, *&c. per Cent.* and in Case of Loss to abate 10 *per Cent.* † and to pay without further Proof of any Interest whatsoever, more than this present Policy, any Use or Custom to the contrary notwithstanding. In witness whereof we the Assurers have subscribed our Names and Sums assured in ——— *London*, the, *&c.* 1705.

It is to be observ'd, that tho' in the Policy there be a Clause for deducting only Ten *per Cent.* it is usual to abate 16. But then if a Merchant is not willing to run the Hazard of the Loss of that Abatement, and the Insurance Money, he may insure as much more upon the Ship and Effects as will countervail that Damage in Case of the Loss thereof.

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† *And when Insurance is made upon Account of Money lent on Bottomry, the Assured must be sure after these Words*, and in Case of Loss to abate Ten *per Cent. to have the following Clause inserted, viz.* And to pay without further Proof of any Interest whatsoever, other than this present Policy, any Use or Custom to the contrary notwithstanding.

The

The Form of a Policy of Insurance upon Goods only.

IN the Name of God, Amen. *A. B.* of *&c.* as well in his own Name as for and in the Name and Names of all and every Person or Persons to whom the same doth, may, or shall appertain, in part or in all, doth make Assurance, and causeth himself, and them, and every of them, to be insured, lost or not lost, at and from thence to *London*, to all or any Ports or Places in *China*, *Persia*, or elsewhere beyond the *Cape of Good Hope*, and at and from thence to *London*, upon any Kind of Goods and Merchandizes whatsoever loaden or to be loaden aboard the good Ship called the, *&c.* Burden, *&c.* Tons, whereof is Master under God for this present Voyage, *&c.* or whosoever else shall go for Master in the said Ship, or by whatsoever other Names the said Ship or Master thereof is or shall be named or called, beginning the Adventure upon the said Goods and Merchandizes from and immediately following the loading thereof aboard the said Ship at *London*, and so shall continue and endure until the said Ship with the said Goods and Merchandizes whatsoever shall be arrived at all or any Ports and Places in *China*, *Persia*, or elsewhere beyond the *Cape of Good Hope*, and the Goods and Merchandizes there safely landed, and the Adventure to begin on other Goods and Merchandizes from the loading thereof aboard the said Ship at any Ports or Places in *China*, *Persia*, or elsewhere beyond the *Cape of Good Hope*, and so shall continue and endure until the said Goods and Merchandizes shall arrive at *London*, and the same there safely landed; and it shall be lawful for the said Ship in this Voyage to stop and stay at any Ports or Places whatsoever * without Prejudice to this Insurance; the said Goods and Merchandizes by Agreement are and shall be valued at

Sterling, without farther Accompt to be given by the Assureds for the same. Touching the Adventures and Perils, which we the Assurers are contented to bear, and do take upon us in this Voyage, they are of the Seas, Men of War, Fire, Enemies, Pirates, Rovers, Thieves, Jettezones, Letters of Mart and Counter-mart, Surprizals, Takings at Sea, Arrests, Restraints and Detainments of all Kings, Princes, and People, of what Nation, Condition or Quality soever, Barratry of the Master and Mariners, and of all other Perils, Losses and Misfortunes that have or shall come to the Hurt, Detriment or Damage of the said Goods and Merchandizes, *&c.* or any part thereof. And in Case of any Loss or Misfortune, it shall be lawful to the Assureds, their Factors, Servants, and

* Vide *the foregoing Copy.*

Assigns,

Assigns, to sue, labour, and travel for, in, and about the Defence, Safeguard, and Recovery of the said Goods and Merchandizes, *&c.* or any Part thereof, without Prejudice to this Insurance, to the Charges whereof we the Assurers will contribute each one according to the Rate and Quantity of this Sum herein assured. And it is agreed by us the Insurers, that this Writing or Policy of Assurance shall be of as much Force and Effect as the surest Writing or Policy of Assurance heretofore made in *Lombard-street*, or in the *Royal Exchange*, or elsewhere in *London*. And so we the Assurers are contented, and do hereby promise and bind our selves, each one for his own Part, our Heirs, Executors, and Goods to the Assureds, their Executors, Administrators, and Assigns, for the true Performance of the Premises, confessing our selves paid the Consideration due unto us for this Assurance by *A. B.* at and after the Rate of *per Cent.* and in Case of Loss to abate Ten *per Cent.* In Witness whereof we the Assurers have subscribed our Names and Sums assured in *London*.

The Form of a Policy on Ship and Goods.

IN the Name of God, Amen. *A. B.* &c. as well in his own Name as for and in the Name and Names of all and every other Person or Persons to whom the same doth, may, or shall appertain, in part, or in all, doth make Assurance, and causeth himself, and them, and every of them, to be insured, lost or not lost, at and from *London* to all or any Ports and Places in *China*, *Persia*, or elsewhere beyond the *Cape of good Hope*, and at and from thence to *London*, upon any Kind of Goods and Merchandizes, and also upon the Body, Tackle, Apparel, Ordnance, Munition, Artillery, Boat, and other Furniture of and in the good Ship or Vessel called the, *&c.* Burthen, *&c.* Tuns, or thereabouts, whereof is Master under God in this Voyage, *&c.* or whosoever else shall go for Master in the said Ship, or by whatsoever other Name or Names the same Ship or the Master thereof is or shall be named or called, beginning the Adventure upon the said Goods and Merchandizes from the loading thereof aboard the same Ship at *London*, and upon the said Ship, *&c.* from and immediately following the Day of the Date hereof, and so shall continue and endure during her Abode there upon the said Ship, *&c.* and farther until the said Ship with all her Ordnance, Tackle, Apparel, *&c.* and Goods and Merchandizes whatsoever, shall be arrived at all or any Ports and Places in *China*, *Persia*, or elsewhere beyond the *Cape of Good Hope*, and

the

the Goods and Merchandizes there safely landed, and the Adventure to begin on other Goods and Merchandizes from the loading thereof aboard the said Ship at any Ports and Places in *China*, *Persia*, or elsewhere beyond the *Cape of Good Hope*, and upon the said Ship, *&c.* at her Arrival at any Ports or Places in *China*, *Persia*, or elsewhere beyond the *Cape of Good Hope*, and so shall continue and endure during her Abode there, and further until the said Ship, *&c.* and Goods and Merchandize whatsoever shall be arrived at *London*, and upon the Ship, *&c.* until she hath there moored at Anchor 24 Hours in good Safety, and upon the Goods and Merchandizes, until the same be there discharged and safely landed; and it shall be lawful for the said Ship, *&c.* in this Voyage to proceed and sail to, and touch and stay at any Ports and Places whatsoever without Prejudice to this Insurance; the said Ship, *&c.* Goods and Merchandizes, *&c.* for so much as concerns the Assured by Agreement made between the Assured and Assurers in this Policy, are and shall be valued at

Sterling, without farther Accompt to be given by the Assureds for the same. Touching the Adventures and Perils, which we the Assurers are content to bear, and do take upon us in this Voyage, they are of the Seas, Men of War, Fire, Enemies, Pirates, Rovers, Thieves, Jettezons, Letters of Mart and Counter-mart, Surprizals and Takings at Sea, Arrests, Restraints and Detainments of all Kings, Princes, and People, of what Nation, Condition, or Quality soever, Barratry of the Master and Mariners, and of other Perils, Losses and Misfortunes that have or shall come to the Hurt, Detriment or Damage of the said Ship, *&c.* or any part thereof. And in Case of any Misfortune, it shall be lawful to the Assured, Factors, Servants, and Assigns, to sue, labour, and travel for, in, and about the Defence, Safeguard, and Recovery of the said Goods and Merchandizes, and Ships, *&c.* or any part thereof, without Prejudice to this Insurance, to the Charges whereof we the Assurers will contribute each one according to the Rate and Quantity of this Sum herein assured. And it is agreed by us the Insurers, that this Writing or Policy of Assurance shall be of as much Force and Effect as the surest Writing or Policy of Assurance heretofore made in *Lombard-street*, or elsewhere in *London*. And so we the Assurers are contented, and do hereby promise and bind our selves, each one for his own Part, our Heirs, Executors, and Goods, to the Assured, Executors, Administrators, and Assigns, for the true Performance of the Premises, confessing our selves paid the Consideration due unto us for this Assurance by *A. B.* at and after the Rate of *per Cent.* and in Case of Loss to abate Ten *per Cent.* In witness whereof we the Assurers have subscribed our Names and Sums assured in *London*.

Assigns, to sue, labour, and travel for, in, and about the Defence, Safeguard, and Recovery of the said Goods and Merchandizes, *&c.* or any Part thereof, without Prejudice to this Insurance, to the Charges whereof we the Assurers will contribute each one according to the Rate and Quantity of this Sum herein assured. And it is agreed by us the Insurers, that this Writing or Policy of Assurance shall be of as much Force and Effect as the surest Writing or Policy of Assurance heretofore made in *Lombard-street*, or in the *Royal Exchange*, or elsewhere in *London*. And so we the Assurers are contented, and do hereby promise and bind our selves, each one for his own Part, our Heirs, Executors, and Goods to the Assureds, their Executors, Administrators, and Assigns, for the true Performance of the Premises, confessing our selves paid the Consideration due unto us for this Assurance by *A. B.* at and after the Rate of *per Cent.* and in Case of Loss to abate Ten *per Cent.* In Witness whereof we the Assurers have subscribed our Names and Sums assured in *London*.

The Form of a Policy on Ship and Goods.

IN the Name of God, Amen. *A. B.* &c. as well in his own Name as for and in the Name and Names of all and every other Person or Persons to whom the same doth, may, or shall appertain, in part, or in all, doth make Assurance, and causeth himself, and them, and every of them, to be insured, lost or not lost, at and from *London* to all or any Ports and Places in *China*, *Persia*, or elsewhere beyond the *Cape of good Hope*, and at and from thence to *London*, upon any Kind of Goods and Merchandizes, and also upon the Body, Tackle, Apparel, Ordnance, Munition, Artillery, Boat, and other Furniture of and in the good Ship or Vessel called the, *&c.* Burthen, *&c.* Tuns, or thereabouts, whereof is Master under God in this Voyage, *&c.* or whosoever else shall go for Master in the said Ship, or by whatsoever other Name or Names the same Ship or the Master thereof is or shall be named or called, beginning the Adventure upon the said Goods and Merchandizes from the loading thereof aboard the same Ship at *London*, and upon the said Ship, *&c.* from and immediately following the Day of the Date hereof, and so shall continue and endure during her Abode there upon the said Ship, *&c.* and farther until the said Ship with all her Ordnance, Tackle, Apparel, *&c.* and Goods and Merchandizes whatsoever, shall be arrived at all or any Ports and Places in *China*, *Persia*, or elsewhere beyond the *Cape of Good Hope*, and

the

the Goods and Merchandizes there safely landed, and the Adventure to begin on other Goods and Merchandizes from the loading thereof aboard the said Ship at any Ports and Places in *China*, *Persia*, or elsewhere beyond the *Cape of Good Hope*, and upon the said Ship, *&c.* at her Arrival at any Ports or Places in *China*, *Persia*, or elsewhere beyond the *Cape of Good Hope*, and so shall continue and endure during her Abode there, and further until the said Ship, *&c.* and Goods and Merchandize whatsoever shall be arrived at *London*, and upon the Ship, *&c.* until she hath there moored at Anchor 24 Hours in good Safety, and upon the Goods and Merchandizes, until the same be there discharged and safely landed; and it shall be lawful for the said Ship, *&c.* in this Voyage to proceed and sail to, and touch and stay at any Ports and Places whatsoever without Prejudice to this Insurance; the said Ship, *&c.* Goods and Merchandizes, *&c.* for so much as concerns the Assured by Agreement made between the Assured and Assurers in this Policy, are and shall be valued at

Sterling, without farther Accompt to be given by the Assureds for the same. Touching the Adventures and Perils, which we the Assurers are content to bear, and do take upon us in this Voyage, they are of the Seas, Men of War, Fire, Enemies, Pirates, Rovers, Thieves, Jettezons, Letters of Mart and Counter-mart, Surprizals and Takings at Sea, Arrests, Restraints and Detainments of all Kings, Princes, and People, of what Nation, Condition, or Quality soever, Barratry of the Master and Mariners, and of other Perils, Losses and Misfortunes that have or shall come to the Hurt, Detriment or Damage of the said Ship, *&c.* or any part thereof. And in Case of any Misfortune, it shall be lawful to the Assured, Factors, Servants, and Assigns, to sue, labour, and travel for, in, and about the Defence, Safeguard, and Recovery of the said Goods and Merchandizes, and Ships, *&c.* or any part thereof, without Prejudice to this Insurance, to the Charges whereof we the Assurers will contribute each one according to the Rate and Quantity of this Sum herein assured. And it is agreed by us the Insurers, that this Writing or Policy of Assurance shall be of as much Force and Effect as the surest Writing or Policy of Assurance heretofore made in *Lombard-street*, or elsewhere in *London*. And so we the Assurers are contented, and do hereby promise and bind our selves, each one for his own Part, our Heirs, Executors, and Goods, to the Assured, Executors, Administrators, and Assigns, for the true Performance of the Premises, confessing our selves paid the Consideration due unto us for this Assurance by *A. B.* at and after the Rate of *per Cent.* and in Case of Loss to abate Ten *per Cent.* In witness whereof we the Assurers have subscribed our Names and Sums assured in *London*.

Now the manner of insuring and recovering the Sums in Case of the Loss of the Effects insured, is thus.

When you are desirous to insure, whether Ships or Goods, outward or homeward, or both, going to the Office of Insurance, you must inform your self of the *Præmium* or Rate of the Insurance for the Voyage for which you would insure, and if you agree in that, you tell them upon what Ships, and all the other Circumstances, after which you enquire after the Names of the Persons insuring, and having pitch'd upon those you like best, before the next Day the Policy is filled up, and being afterwards signed and registred, you pay the *Præmium*, and the Fee for the Policy, and so you take it away.

Note, That if any Body pretends to insure Ships or Goods which they already know to be lost, the Insurers proving that, the thing will be look'd upon as a Cheat, as certainly it is, and the Sums insured will never be recovered; so that in that (as indeed in all other) Cases *Honesty is the best Policy*.

As to the Recovery of the Monies insured, when you have received certain Advice of the Loss of the Ship or Goods, you must apply to the Insurers, and produce your Vouchers, with which if they be satisfied, they'll pay the Money without any further Scruple, nor can they make any Scruple, except they have some reasonable Ground to found it upon, in which Case the Party who has insured the Sums must wait a competent Time, according to the Distance of the Place where the Ship is alledged to be lost, till certain Advice can be got about it, or if nothing can be heard of the Ship in any reasonable Time, then the Insurers must unavoidably pay the Money, and if after that it should happen that the Ship should return safe Home, the Money must be restored to the Insurers.

But when it happens (as it often does) that some Part only of the Effects insured are lost, as in the Case of Ejections in a Storm, or other such Accidents, then the Insurers make an Average of it, and each Man pays so much *per Cent.* in Proportion to the Sum for which he subscribed. However it is to be observed, that for the most part there are Abatements made in paying Monies insured, which differ according to the different Customs of the several Countries in which Insurance is in Use, which in *England* is 16 *per Cent.* as has been already observed.

And as for such Persons as have hitherto ventured to insure the Delivery of counterband Goods into the Shops and Houses of the Buyers, that they may not be ignorant of the Penalties in Case of Discovery, they may please to peruse the following Clauses of an Act of Parliament made in the Fourth and Fifth Years of King *William* and Queen *Mary*.

" And

" And whereas it is found by Experience that great Quantities " of Goods are daily imported from foreign Parts in a fraudulent " and clandestine Manner, without paying the Customs and Du- " ties due and payable to their Majesties, and the same hath of " late been much increased and promoted by ill Men, who, not- " withstanding the Laws already made, do undertake, as Insurers, " or otherwise, to deliver such Goods, so clandestinely imported " at their Charge and Hazard, into the Houses, Warehouses, or " Possession of the Owners thereof, for the preventing so great a " Mischief, be it enacted by the Authority aforesaid, that all and " every Person and Persons whatsoever, who by way of Insurance " or otherwise, shall undertake or agree to deliver any Goods or " Merchandizes whatsoever, to be imported from Parts beyond " the Seas, at any Port or Place whatsoever within the Kingdom " of *England*, Dominion of *Wales*, or Town of *Berwick* upon " *Tweed*, without paying the Customs and Duties that shall be " due and payable for the same at such Importation, or any pro- " hibited Goods whatsoever, or in pursuance of such Insurance, " Undertaking, or Agreement, shall deliver, or cause or procure " to be delivered any Goods or Merchandizes whatsoever, with- " out paying such Duties and Customs as aforesaid, knowing " thereof, and all and every their Aiders, Abettors and Assistants, " shall for every such Offence forfeit and lose the Sum of Five " Hundred Pounds, over and above all other Forfeitures and Pe- " nalties to which they are liable by any Act already in force.

And be it further enacted by the Authority aforesaid, " That " all and every Person or Persons whatsoever who shall agree to " pay any Sum or Sums for the insuring or conveying any Goods " or Merchandizes that shall be so imported, without paying the " Customs and Duties due and payable at the Importation thereof, " or of any prohibited Goods whatsoever, or shall receive or take " such prohibited Goods into his or their House, or Warehouse, " or other Place on Land, or such other Goods, before such Cu- " stoms and Duties are paid, knowing thereof, shall for every " such Offence forfeit and lose the like Sum of Five Hundred " Pounds, the one half to be to their Majesties, and the other " half to the Informer, or such Person or Persons as shall sue for " the same.

And be it further enacted by the Authority aforesaid, " That " if the Insurer, Conveyer or Manager of such Fraud be the Dis- " coverer of the same, he shall not only keep and enjoy the Insu- " rance Money or Reward given him, and be discharged of the " Penalties to which he is liable by reason of such Offence, but " shall also have to his own Use one half of the Forfeitures here-

" by imposed upon the Party or Parties making such Insurance or " Agreement, or receiving the Goods, as aforesaid. And in Case " no Discovery shall be made by the Insurer, Conveyer or Mana- " ger, as aforesaid, and the Party or Parties insured or concerned " in such Agreement shall make a Discovery thereof, he shall re- " cover and receive back such Insurance Money or *Præmium* as he " hath paid upon such Insurance or Agreement, and shall have to " his own Use one Moiety of the Forfeitures imposed upon such " Insurer, Conveyer or Manager, as aforesaid, and shall also be " discharged of the Forfeitures hereby imposed upon him or " them.

And be it enacted, " That all the said Penalties and Forfeitures " shall be recoverable, according to the Course of the Court of " *Exchequer*, in like manner as other Penalties and Forfeitures in " like Cases are recoverable.

Provided, " That no Penalty hereby inflicted shall be recovera- " ble, unless the same be prosecuted within Twelve Months after " the Time such Fact was committed, any thing in this Act to the " contrary notwithstanding.

There is no fix'd nor certain Price for the Rates of Insurances, which rise and fall according to the State of the Nation in Peace or War, the Season of the Year, and other various Occurrences; and consequently the Consideration to be paid for Monies lent by way of Bottomry, which is computed according to the Price of Insurance for the Voyage the Ship is on, and not at any fix'd Price, must also be variable; for now in present War the Rate of Insurance on a good Ship from *London* to any Ports or Places in the *East Indies*, *China*, *Persia*, or elsewhere beyond the *Cape of Good Hope*, and back, is about 16 *per Cent.* and the Consideration on Bottomry 45 *per Cent.* for 20 Months certain; and *pro rato* (that is to say 2 *l.* 5 *s.* *per* Month) for so long Time afterwards as she is out on the Voyage, not exceeding 16 Months more. But in the late War the *Præmium* of Insurance on a good Ship for the like Voyage was about 22 *per Cent.* and the Consideration on Bottomry about 55 *per Cent.* for the same Term, *&c.* and yet in regard of the Danger of the Adventure it cannot in Law be deemed Usury.

The Borrower is in all Cases obliged to make out a Loss, and if it does not plainly appear that the Ship was totally, utterly, and unavoidably lost, without Design, Fraud, or Cheat, then he shall be as much liable to pay the Debt as the Ship that was some few Years ago burnt in the *Mediterranean* by Order of the Owner, who borrowed a considerable Sum of Money on Bottomry, and had he been in a Capacity of paying it, was by the Law obliged

so

so to do, for Judgment was obtained on the Obligations, and Execution suffered accordingly.

If a Ship in her Voyage sustain very much Damage, and afterwards arrive at her outward bound Port safe, but very much shattered and damnified, and her Bottom eat almost out with the Worms, so as the Ship without re-building could not be capable to proceed back, and the Ship shall there lie and rot, yet notwithstanding the Lender shall sustain no Loss thereby, but the Borrower shall be under an equal Obligation of paying as if she had made her Voyage without Damage, and returned safe.

No Master can take up upon Bottomry, in the Place where the other Owners reside, more Money than their own Share amounts to.

In Case the Lender is minded to be insured, and accordingly causes a Policy of Insurance to be made on the Ship whereon he lends his Money, he may for each 100 *l.* lent insure 125 *l.* or 150 *l.* so as he be no Loser if the Ship should happen to be lost, but he must be sure to have inserted in his Policy, that the Insurers, in Case of Loss, shall pay without Proof of any Interest whatsoever more than that Policy, any Use or Custom to the contrary notwithstanding, otherwise 'tis required that every Person that makes Insurance should have Proof of his Interest in the Ship. And as the principal Proof and Interest in Goods ship'd on board of any Vessel consists in a Bill of Lading, which is an Acknowledgment by the Master or Purser of the Ship of the Receipt of such Goods, *&c.* I have thought fit to insert the Form of a Bill of Lading, as under.

Shipped

Shipped by the Grace of God, in good Order, and well Conditioned, by (1) *in and upon the good Ship called the* (2) *whereof is Master under God for this present Voyage* (3) *and now riding at Anchor in* (4) *and by God's Grace bound for* (5) *to say* (6) *being marked and numbred as in the Margent, and are to be delivered in the like good Order and well conditioned at the aforesaid Port of (the Danger of the Seas only excepted) unto* (7) *or to his Assigns, he or they paying for the said Goods* (8) *with Primage and Average accustomed. In witness whereof the Master or Purser of the said Ship hath affirmed to Three Bills of Lading, all of this Tenour and Date, the one of which Three Bills being accomplished, the other Two to stand void. And so God send the good Ship to her desired Port in Safety.* Amen. *Dated in the*, &c.

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(1) Here set down the Name of the Merchant or Factor who lades the Goods.

(2) Here the Name of the Ship, and of the Port to which she belongs.

(3) Here the Name of the Master.

(4) Here the Name of the Port where the Ship lies.

(5) Here that of the Port whither she is bound.

(6) Here the Goods shipped.

(7) Here the Name and Character of the Person to whom the Goods are to be delivered.

(8) Here the Sum to be paid for Freight.

Note, *That in shipping Goods for the Plantations the Freight is commonly paid before-hand*, viz. *at the shipping of the Goods.*

In London, *when the Waterman, or such other Person employ'd, has put the Goods aboard, he takes a Receipt of the Purser, Mate, or other chief Officer then in the Ship, for the Goods delivered, upon Sight of which the Captain signs the Bill of Lading.*

Freight

Freight is the Sum agreed to be paid by the Merchant to the Master for the Carriage of his Goods.

Primage is a small Duty, may be of One Shilling *per* Tun, or somewhat more, which is likewise paid by the Merchant to the Master.

Average is a Duty allowed to Masters of Ships, in Consideration of the extraordinary Charge or Damage they may sustain in the Voyage, as Loss of Anchors, Cables, Sails, *&c.* or extraordinary Charge in Pilotage, and other things of that nature; but tho' none of those extraordinary Accidents happen, there is generally some Average paid, perhaps 1 *d.* or 2 *d.* in each Shilling of the Freight.

In former Times the Deficiency of Policies of Insurance occasioned many Differences and Law Suits, but by the Prudence of the Merchants the Policies are now so full, and contain all the Conditions so plainly, that there's little Ground left to raise any Difference about their Meaning. And the same thing may be said of Bonds of Bottomry, of which here follow several Copies.

The Condition of a Bond of Bottomry for the whole Voyage, without Limitation of Time.

THE Condition of the above written Obligation is such, that if the good Ship or Vessel called the of the Burthen of or thereabouts, now in the River of *Thames*, whereof *T. S.* is Master, do and shall with all convenient Speed proceed and sail from and out of the said River of *Thames* on a Voyage † *with good and sufficient Convoy* to *Lisbon*, in the Kingdom of *Portugal*, and from thence do and shall sail and return *with good and sufficient Convoy* into the said River of *Thames* (and that without Deviation, the Dangers of the Seas and Enemies excepted.) And if the above bound *A. B.* his Executors, Administrators, or Assigns, do and shall within 20 Days next after the said Ship shall be returned and arrived to and in the said River of *Thames* from the said Voyage, well and truly pay, or cause to be paid unto the above named *C. D.* his Executors, Administrators, or Assigns, the Sum of of lawful Money of *England*, then the above written Obligation to be void, or else to stand in full Force and Virtue.

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† *These Words* with good and sufficient Convoy, *are to be left out when they do not agree that the Ship shall go with Convoy.*

The

The Condition of a Bond of Bottomry for 20 Months certain, and 16 more uncertain for 100 l. borrow'd, to return 145 l. for 20 Months, and 2 l. 5 s. per Month afterwards, as above written.

THE Condition of the above written Obligation is such, That if the good Ship or Vessel called the of the Burthen of Tuns, or thereabouts, now in the River of *Thames*, whereof is Master, do and shall with all convenient Speed proceed and sail from and out of the said River of *Thames* on a Voyage *(with good and sufficient Convoy)* to *Constantinople* in *Turky*, and from thence do and shall sail and return *(with good and sufficient Convoy)* into the said River of *Thames* (and that without Deviation) at or before the End and Expiration of 36 Kalendar Months, to be accounted from the Day of the Date above written (the Dangers and Casualties of the Seas and Enemies excepted) And if the above bound *A. B.* his Executors, Administrators, or Assigns, do and shall within 30 Days next after the said Ship shall be returned or arrived to and in the said River of *Thames* from the said Voyage, or at the End and Expiration of the said 36 Months, to be accounted as aforesaid (which of the said times shall first and next happen) well and truly pay or cause to be paid unto the above named *C. D.* his Executors, Administrators, or Assigns, the Sum of 145 *l.* of good and lawful Money of *England*, together with 2 *l.* 5 *s.* like Money *per* Month, and so proportionably for a greater or lesser Time than a Month, for all such Time and so many Months as shall be elapsed and run out of the said 36 Months, over and above 20 Months, to be accounted from the Day of the Date above written; or if in the said Voyage, within the said 36 Months, to be accounted as aforesaid, an utter Loss of the said Ship (she sailing and being with and under such Convoy as aforesaid) by Fire, Enemies, Men of War, or any other Casualties, shall unavoidably happen, then the above written Obligation to be void, or else to remain in full Force and Virtue.

Note, The Monthly Consideration is always proportionable to the Price agreed on for the certain Months.

And as it sometimes happens that a Person having borrowed (suppose 100 *l.* of another Man upon Bottomry, lays out the same in a Ship bound for a long Voyage, and staying at Home himself, it may so fall out, that both Parties being uncertain about the Condition of the Ship, may agree to make a new Bond in the following manner.

The

The Condition of a Bond of Bottomry upon a Ship gone out on a Voyage, the Parties not knowing whether she be safe or not.

THE Condition of the above written Obligation is such, That if the good Ship or Vessel called the of the Burthen of Tuns, or thereabouts, now at Sea, or elsewhere, do and shall with all convenient Speed proceed and sail on a Voyage to any Ports or Places in the *East Indies*, *China*, *Persia*, or elsewhere beyond the *Cape of Good Hope*, and from thence do and shall sail and return in and to the River of *Thames* and Port of *London* at or before the End and Expiration of 36 Kalendar Months, to be accounted from the Day of the Date above written, and that without Deviation (the Dangers and Casualties of the Seas and Enemies excepted) and if the above bound *A. B.* his Executors, Administrators or Assigns, do and shall within 30 Days next after the said Ship shall be returned or arrived to and in the said River of *Thames* from the said Voyage, or at the End and Expiration of the said 36 Months, which of the said times shall first and next happen, well and truly pay or cause to be paid unto the above named *C. D.* his Executors, Administrators or Assigns, the Sum of 145 *l.* of good and lawful Money of *England*, together with 2 *l.* 5 *s.* of like Money *per* Month, and so proportionably for a greater or lesser Time than a Month, for all such Time and so many Months as shall be elapsed and run out of the said 36 Months, over and above 20 Months, to be accounted from the Day of the Date above written. But in Case the said Ship be lost before the Day of the Date above written, then if the said *A. B.* his Executors, Administrators or Assigns, do or shall within 20 Days next after such Loss shall be plainly made appear, well and truly pay or cause to be paid unto the said *C. D.* his Executors, Administrators or Assigns, the Sum of 100 *l.* of good and lawful Money of *England* (being the principal Monies lent by the said *C. D.* unto the said *A. B* on the above written Obligation) together with Interest for the same after the Rate of 6 *per Cent. per Ann.* or if in the said Voyage, and within the said 36 Months, to be accounted as aforesaid, an utter Loss of the said Ship (she sailing and being with and under such Convoy as aforesaid) by Fire, Enemies, Men of War, or any other Casualties shall unavoidably happen, then the above written Obligation to be void, or else to remain in full Force and Virtue.

Sometimes Bonds of Bottomry are for Payment of Monies in foreign Ports.

Sometimes it is agreed between the Borrower and the Lender, that only the ordinary Interest at the Rate of 6 *per Cent. per Ann.*

shall be paid for the Monies borrowed till the Ship departs from *Gravesend*.

Forms of Bills of Bottomry of several sorts we have already given you.

Thus much being said of Bonds of Bottomry, *&c.* I shall only add a few Lines concerning some Cases of Insurance, with a short Account of the Court anciently established for deciding Differences of that nature, and so come to a Close.

In Case of the Loss of any Ship, if the Insurers can prove that the same was in any manner done designedly, they will not be liable for the Value.

One *Perkins* being Part-Owner of a Vessel of which *Ivy* was Master, the Vessel arriving at the *Isle of Wight*, laden with Wines upon the Account of Two Merchants who had freighted the Ship, the said *Perkins* and *Ivy* laid a Plot to sell clandestinely the Merchants Goods, and then he put to Sea, and sunk the Vessel a little Way off the Island, so as the Crew might save themselves in the Boat.

The Plot being thus laid, *Perkins* posted up to *London*, and made an Insurance upon the Ship, while *Ivy*, having managed his Business in the *Isle of Wight*, putting to Sea again, bor'd a Hole in the Hold with an Iron Crow, so that the Mariners seeing the Vessel a sinking put to Shore with the Master in the Ships Boat, and sending *Perkins* Advice of the Loss, he su'd the Insurers. But while the Cause was depending an Action of *Trover* was brought by the Freighters against *Perkins* for their Goods, and a Verdict being given for the Plantiffs, that spoil'd the Suit against the Insurers, and discover'd all the Fraud.

If a Merchant insures Goods for any Voyage in a certain Ship, and during the Voyage the Ship becomes leaky, and the Merchant and Master by Consent freight another Ship to perform the remaining part of the Voyage, and then that Ship miscarries, the Insurers are absolutely discharged from all Risque, except there be an express Clause in the Policy to the contrary.

If a Merchant insures Goods from *London* to *Leghorn*, there to be landed, and the Factor thinking they would sell better at another Port, contracts for the Freight to that other Port in the same Ship, and by the Way all happens to be lost, the Insurers are notwithstanding discharged.

If a Person lades counterband Goods in *England*, knowing them to be such, and afterwards insures the same, and they are seized by the Queen's Officers, the Insurers will not bear the Loss; but if Goods be insured, not being counterband at the time of the Lading and Insurance, but becoming such by some posterior Act or Declaration, are afterwards seized, then the Assurers must bear the Loss.

By the Statute 43 *Eliz. Cap.* 12. there was a Court of Insurance erected for deciding Differences arising upon Policies of Insurance in *London*, in the following manner.

That Court to be constituted by a standing Commission, issued out by the Lord Chancellor or Lord Keeper for the Time being, Yearly, or as often as to him should seem meet.

The Commissioners of that Court to be the Judge of the High Court of Admiralty, the Recorder of *London*, Two Doctors of the Civil Law, Two common Lawyers, and Eight discreet Merchants.

They, or any 5 of them, to meet Weekly at the *Insurance Office*, or some other publick Place, and to have Power to summon and examine Witnesses, and to hear and determine all Causes summarily, and without the Formality of pleading, and to commit to Prison in case of Disobedience to their Decrees, and no Fees to be exacted.

No Commissioner to act or judge in any Cause in which he is concerned before he has taken an Oath before my Lord Mayor to judge uprightly and indifferently.

An Appeal lies from their Sentence to the Lord Chancellor or Lord Keeper, the Money being first deposited by the Party appealing.

But this Act being deficient in several Points, it was enacted by the Statute, 14 *Car.* II. *Cap.* 25.

That Three Commissioners, whereof a Doctor of the Civil Law, or a Barister of 5 Years standing, to be one, should make a Court.

That they should have Power (which they had not before) in Case of Contempt or Delay of Witnesses upon the first Summons, with Tender of reasonable Charges, and in Case of Contempt or Delay of the Parties upon the second Summons, to imprison Offenders, or give Costs.

Every Commissioner to take an Oath before my Lord Mayor, and any of them to have Power to administer an Oath to any Person, the adverse Party having Notice to be present to see the Person fairly examined.

Commissions may issue out of the Court of Admiralty for examining of Witnesses beyond Sea, or in remote Places, by Direction of the Commissioners, and Decrees may be made against Body and Goods, and against Executors and Administrators, and Execution accordingly; and they may assess Costs of Suit, as to them shall seem convenient.

However the Jurisdiction of that Court was never absolute, but concurrent with that of the other Courts; and now there is no such Court in being, but such Causes are tried in the ordinary Courts, tho' it were to be wished 'twas otherwise, for according to that Way of Proceeding several Advantages would attend the Publick Way of Insuring. As,

1. If the Policy be lost, the Entry made of it in the *Insurance Office* is a sufficient Proof both in the Common and Civil Law; whereas if a private Policy be lost, the Party must seek Relief in *Chancery*. And,

2*dly*. The Proceedings in the Court of Insurance while in being were summary, and according to the Custom of Merchants, but are not so in the other Courts.

The Court of Admiralty claims that Jurisdiction, and in all other Nations has it; but in *England* the Jurisdiction of that Court is so uncertain, that either the Cognizance of many Causes is denied them under pretence, that tho' in some Respects they may be Maritime, in others they are triable at Common Law; or if they be in all Respects Maritime, a Prohibition will be issued to the Court of Admiralty upon the slightest Suggestion imaginable, forbidding them to proceed, as has been more largely observed in treating of the Jurisdiction of that Court.

I am now to come to say something of the Practice of modern *European* Nations with regard to the searching and seizing, whether the Ships of Friends or Enemies, in time of War.

And in the first place it is held, that in Case of the breaking out of a War the Sovereign of any Country may detain the Ships of the Nation with which he enters into War, till he sees how those of his Subjects are used in that Country; but in this Case the Treaties between the respective Nations should be considered and observed.

And concerning the Liberty of neutral Ports, with regard to the Subjects of foreign Princes in War with one another, this general Observation is to be made, that all things are transacted in them according to the Treaties in force between the respective Sovereigns, this only is to be taken notice of, that in no Case whatsoever any hostile Attempt is to be made by any Party upon an Enemy within the Liberty of a neutral Port, because that would be an open Violation of the Peace, and Contempt of the Authority and Jurisdiction of the lawful Sovereign of that Port; of this many Instances could be given both out of ancient and modern History, besides the present Practice of the Nations now at War in *Europe*.

Sir *Walter Raleigh* in the 7th Section of the third Chapter of the 5th Book of his *Universal History* gives an Account, that the *Romans* and *Carthaginians* being at War, happening to meet in *Syphax* Port, the latter being by far the stronger, might easily have destroyed the *Romans* if it had been lawful to engage 'em in a neutral Port.

And so the *Venetians* and *Tunis* being in open War, their Fleets having met in *Tunis*, tho' that Port acknowledges the Emperor of the *Turks* as their Sovereign, as it is in the nature of a free Port within it self, they would not suffer any Hostility to be committed.

And so likewise the *Venetians* were forbid by the Governor of *Vallona*, a Port belonging to the *Grand Seignior*, to assault within the Liberty of that Port the very Pirates, with which their Gulph was infested.

In the same manner also the *Venetians* and *Genoeze* being at War, and their Fleets meeting at *Tyre*, and not being allowed to fight in the Port, they actually sailed out without the Liberty thereof to decide the Matter there.

And

And the same thing was practised in the *Dutch* War by Captain *Harman* Commander of an *English* Frigot, who having received a Challenge from *Cornelius de Witt*, Commander of a *Dutch* Man of War, both lying at Anchor in the Port of *Cadiz*, they sailed with Consent out of the Port, and the *Dutchman* after losing above Two Thirds of his Men being boarded and taken, Captain *Harman* brought him back again into the Port at his Stern; but the *Hamburghers* having suffered the *Dutch* Fleet to take and destroy some *English* Merchant Ships in their Port, they were afterwards obliged to make good the Damage.

I shall in the next place consider in few Words the present Practice of searching and taking Ships in time of War, as far as such Takings divests the Owners of the Property, so that if the same Ships should be retaken by others of the same Nation, or by Friends, they should belong to the last Captors, without any Obligation to make Restitution.

The Civilians make several Distinctions as to the Point of Captions in time of War.

Some hold it necessary that a Ship taken by an Enemy should be conveyed within the Limits of the Jurisdiction of the Sovereign of the Captors, or into some Port where their Fleet is at Anchor, before the Captors be legally vested with a Property in the Prize, and think that any Ship taken and brought into a neutral Port, before it has been within the Jurisdiction of the Prince or State whose Subjects the Captors are, may by the neutral Nation be restored to the first Owners.

Others again are of Opinion, that tho' the Prize has not been carried within the Jurisdiction of the Prince whose Sovereign the Captor is, if there is what they call *a firm Possession*, that is, if the Prize has been 24 Hours in the Power of the Captor, the same cannot be restored by a neuter Nation.

But however these Opinions may have prevailed of Old, I believe they are but little regarded now, for according to the common Practice of neutral Nations in the present War, they only preserve the Liberty of their Ports, within which they don't suffer any Hostility to be committed; but as to Prizes carried in thither, they don't pretend to make any Restitution, or in any manner to restrain the Captors from disposing of them according to their Pleasure; in all which Cases 'tis still to be considered what Treaties are in force between those neutral Nations and the others who are in War.

But when it happens that (for Example) an *English* Man of War retakes of an Enemy an *English* Merchant Ship taken by them, and not yet carried into any Port of theirs, nor unladed, *&c.* there Restitution is to be made to the first Owners, they paying the Salvage; and so commonly it is when an *English* Merchant Ship taken

taken by the Enemy, is in that manner retaken by the Ships of our Allies; in which Case the Treaties between the respective Nations are likewise to be considered.

Samuel Pellagy with a Ship of the Emperor of *Morocco* having taken a *Spanish* Ship, and brought her into *England*, the King of *Spain* and the Emperor of *Morocco* being then in Enmity, it was adjudg'd that no Restitution could be made, the King of *England* being then in Amity with both.

It is lawful in time of War to search the Ships even of our Friends and Allies, and if any Effects be found therein belonging to the Enemy, to take them out and make them Prize.

However if an *Englishman* should have Effects in the Hands of a *Danish* Factor at *Stockholm*, and a War should break out between *Denmark* and *Sweden*, which might occasion a Seizure of the *Danish* Effects in *Sweden*, the *English* Effects in the Hands of the *Dane* ought not to be seized.

One thing particularly is to be observed by all Merchants and others concerned in Traffick, and that is, that Two other Nations being at War, and they being Subjects of a neutral Prince, they must not in any manner send any sort of Warlike Ammunition, Accoutrements, Horses, Arms, nor other Necessaries, to either of the contending Nations, for these may be seized, according to the Law of Nations, by the Enemies of that Nation.

And it is likewise to be noted, that when any Town or Fortress is invested or blocked up, no manner of Provisions for the Subsistence of the Garison or Inhabitants of the invested Town or City must be sent thither by the Subjects of any neutral Prince, for in that Case they may as lawfully be seized by the Subjects of the Prince who has invested or blocked up the Place, as if they were Ammunition and Warlike Materials.

And as to the Point of seizing Ships in general, whether those of our Allies, or of neuter Nations Trading to our Enemies Countries, every Alteration in the Publick Affairs of *Europe* (and that especially where *England* and *Holland*, which are powerful at Sea, are concerned) renders the Liberties of Trade so precarious, that even since the last War, or which is more, since the beginning of this, and within a short Time past, our Government has thought fit to change their Measures.

This Uncertainty in the Liberty of Commerce has occasioned my Conciseness in what I have in several places of this Treatise said upon that Subject, for almost all the ancient Laws and Customs in that Case provided have given place to latter and more political Regulations, and therefore I have only inserted such Cases and Precedents, and given such Directions as may be depend-

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ed upon; and as to the Point of Shipping, have thought fit to transcribe the Acts of Parliament which do most immediately regard that of the *English* Nation.

As to the present Circumstances of our Trade, and the State of Commerce in general, since the breaking out of the War, the World may remember how sollicitous the *English* Parliament was at the beginning of it to prevent all Traffick, and even all manner of Correspondence, not only between her Majesty's Dominions and the Enemies Countries, but also between our Allies the *Dutch* and they; but it having since appeared that the *Dutch* would not be easily persuaded to continue those severe Prohibitions, the *English* wisely begun to consider, that besides the present want of the usual Supplies of *Spanish* Bullion for our Manufactures, if thro' our Obstinacy not to Trade with the Queen's Enemies in time of War, the *Dutch* should get the Knack of serving them both with our Manufactures and with *East India* Goods, it would not be easy for us to retrieve that Loss in time of Peace, it has been thought expedient to suffer the Trade between us and our Enemies to be carried on in *English* Bottoms, to the no small Satisfaction of our Manufacturers, and of great Numbers of Poor employed in preparing the Wooll for the Loom.

Her Majesty was pleased some Time since to emit an Order for suffering the *Dutch* Ships, having Passes from the States, to pass unmolested by her Men of War and Privateers, and others carrying Letters of Marque; and by a later Declaration in Council she has published her Resolution of allowing her own Subjects, having her Pasports, freely to Trade to *Spain*, and Orders were sent to all the Commanders of her Majesty's Ships, not to molest the *Dutch* Ships, having Pasports from the States, to go either to *France* or *Spain*, her Majesty having likewise commanded all *Dutch* Ships now under Arrest in any of her Ports upon that Account, to be discharged, as may be seen by the following Order.

At the Court at *Windsor*, *August* 13. 1705.

PRESENT

The QUEEN's most Excellent Majesty in Council.

HER *Majesty is graciously pleased this Day to order, That all Ships belonging to the Subjects of the States General of the united Provinces, which have been taken by any of her Majesty's Ships of War or Privateers, or which are now under Arrest in any of her Majesty's Ports, together with their Loadings, be forthwith released; and that for the future no Ships having Passes from the said States General to Trade with* France, *be taken or molested in their Voyage by any of her Majesty's*

Majesty's said Ships of War or Privateers, her Majesty having already opened the Trade with the Dominions of Spain *for the Advantage of her own Subjects. And her Majesty is pleased further to declare and order, that Instructions be now given for the future to the Commanders of her Majesty's Ships of War and Privateers, not to bring up or molest either the Ships of her own Subjects or those of the Subjects of the States General, furnished with proper Passes from her Majesty or the said States General respectively, so as they do not carry any Goods or Merchandize which are contraband. And all Commanders of her Majesty's Ships of War, as well as Privateers, or Merchant Ships having Letters of Mart, are to conform themselves hereunto, notwithstanding any Commissions or Instructions heretofore given them to the contrary. And for their more particular Direction for the future, his Royal Highness, Lord High Admiral, is forthwith to order such Instructions to be prepared as may be proper for the Commanders of Ships of War and Privateers in this behalf, to be delivered to them as soon as may be.*

Chris. Musgrave.

This, and all other Regulations of the like nature, I have thought fit to insert, that nothing might be wanting for the absolute Satisfaction of our Merchants, who ought to be particularly acquainted with such Affairs, for their better Direction in the Business of their Commerce.

I might here add a great many Observations concerning the Lawfulness of pressing foreign Ships to serve in Cases of extraordinary Necessity in Time of War, but that would be superfluous, for since the Royal Navy has been so strong and regularly fitted out, that Custom is worn out of Date in *England*, and in most other neighbouring Nations; however 'tis still in Fashion in *Turky*, where about the Year 1651 they forced Seven *English* Ships then at *Smyrna*, to assist their Fleet in beating the *Venetians* from before *Canea*, threatning, if they refused, to confiscate all the *English* Effects within the *Grand Seignior*'s Dominions, and make Slaves of the Persons of all the *English* Merchants, *&c.* and the *Venetian* Ambassador having complained thereof to the then Powers in *England*, was answered, That those Ships having been forced against their Will to act against those of the Republick of *Venice*, the same did not amount to any Breach of the Peace, and was not criminal in the Officers, *&c.* and so no Satisfaction could be made.

There now remains only a few Words to be added concerning Wrecks, as to which the Customs of most Nations have been very different, some confiscating the same to the Publick, and others strictly prohibiting any such Confiscation, as to which I shall refer the Reader to the several Systems of Sea Laws contained in this Treatise, where 'tis fit to put him in mind, that the Admiralty of *England* observes the Laws of *Oleron*. Where

Where the Goods are derelict, and no Owner appears to reclaim them, the Admiral (if any be, and if none, the Queen) will have the Wreck, in which is comprehended *Flotſon*, *Jetſon*, and *Lagan*.

Flotſon, is when the Ship being ſunk the Goods float above water.

Jetſon, is when Goods are caſt into the Sea to lighten the Ship, and notwithſtanding thereof the Ship periſheth.

Lagan, is when heavy Goods are caſt into the Sea before the periſhing of the Ship, and by the Prudence of the Maſter and Mariners have a Buoy or other Sea Mark made faſt to 'em, whereby they may the more eaſily be directed to the Place where they are.

The Queen ſhall have *Flotſon*, *Jetſon*, and *Lagan*, where the Ship periſheth, but not when the Ship is ſaved, 43 *Eliz.* 3. *Cap.* 15.

Tho' the Ship periſheth, if any of the Men be ſaved, the Goods are not loſt; and it has been ruled, that a Ship being purſued by Enemies, and the Men going out of her to ſave themſelves, and the Enemy taking only the Goods, and leaving the Ship, ſhe being afterwards drawn in to the place whither the Men went aſhore, is not Wreck nor Derelict, but belongs to its true Owners.

Owners claiming a Wreck, muſt make ſufficient Proof of their Title within the Year and Day.

But wreck'd Goods that are periſhable may be diſpoſed of, and the Value kept for the right Owners till the Expiration of the Year and Day.

In *England* all Wrecks belong to the Lord High Admiral by Patent, and no wreck'd Goods pay Cuſtom.

If a Wreck happens by the Negligence or Default of the Maſter or Mariners, the Maſter muſt make good the Loſs; but if it be the Act of God, or for avoiding of Enemies or Pirates, they are blameleſs.

For other Caſes the Reader is referred to the Laws already mentioned.

But to conclude this Diſcourſe, I muſt make ſome ſhort Reflection upon the nature of the thing.

At firſt it was certainly uſual to ſeize and forfeit Wrecks to the King only when no Owner could be found, and that was highly reaſonable, becauſe the Property being in that Caſe in no Man, it muſt of Conſequence belong to the King, as Lord of the narrow Seas, which he was bound to ſcower of Pirates and Rovers, and to the Charge of which it was ordain'd that the Product of Wrecks ſhould contribute.

By the Statute 3 *Ed.* I. *Cap.* 4. concerning the Wrecks of the Sea, it is ordained, that when either a Man, a Dog or a Cat eſcapes alive out of the Ship, there ſhall be no Wreck, but the ſame ſhall be kept a Year and a Day by the Sheriff, to be reſtored to any Perſon that proves the Goods to be his within that time, and if no Body appears, then the ſame to be forfeited to the King.

But I'm rather inclinable to believe *Bracton*, who ſays, *There ſhall be no Wreck where the Owner comes and claims the Goods*, which is indefinite, and does not limit any Time, ſo that whenſoever the Proprietor comes and proves an Intereſt, the Goods are to be reſtored, which certainly is the moſt juſt and equitable Way; for why ſhould an innocent Man loſe his Eſtate merely by the Act of Providence, without any Failure or Offence on his ſide? this is to add Affliction to Affliction, and that in ſuch a lamentable Extremity, that no Act of Parliament nor other Human Law can appear to me to be well grounded that enjoins ſo great a Piece of Cruelty.

If the Goods be periſhable, let them be ſold to the beſt Advantage, and the Value depoſited for the Uſe of ſuch as ſhall at any time within Three Years prove their Title to them; and for the better Diſcovery of the Owners, let Notice of the Wrecks be given by ſuch Means as ſhall be thought moſt convenient to diſperſe the News at Home and Abroad, and then if no Owner be found, the Forfeiture will be leſs unreaſonable.

I ſhall now add the afore-mentioned Acts of Parliament, Two of which are ſo ſhort that they need not be abridg'd; and tho' the Navigation Act be ſomewhat long, its Clauſes are all of ſuch Importance, that they could not well admit of any Abreviation, without rendring the Senſe too obſcure for the Peruſal of thoſe for whom it is intended.

Anno Duodecimo Caroli II. *Regis.*

An Act for the encouraging and increaſing of Shipping and Navigation.

'FOR the Increaſe of Shipping and Encouragement of the Navigation of this Nation, wherein under the good Providence and Protection of God the Wealth and Safety of this Kingdom is ſo much concerned, be it enacted by the King's moſt Excellent Majeſty, and by the Lords and Commons in this preſent Parliament aſſembled, and by the Authority thereof, that from and after the Firſt Day of *December* 1660, and from thence forward, no Goods or Commodities whatſoever ſhall be imported into or exported out of any Lands, Iſlands, Plantations or Territories to his Majeſty belonging, or in his Poſſeſſion, or which may hereafter belong unto or be in the Poſſeſſion of his Majeſty, his Heirs and Succeſſors, in *Aſia*, *Africa*, or *America*, in any other Ship or Ships, Veſſel or Veſſels whatſoever, but in ſuch Ships or Veſſels as do truly and without Fraud belong only to the People of

'*England*,

'*England* or *Ireland*, Dominion of *Wales*, or Town of *Berwick* upon '*Tweed*, or are of the Build of and belonging to any of the ſaid 'Lands, Iſlands, Plantations or Territories as the Proprietors and 'right Owners thereof, and whereof the Maſter and three fourths 'of the Mariners at leaſt are *Engliſh*, under the Penalty of the For-'feiture and Loſs of all the Goods and Commodities, which ſhall 'be imported into, or exported out of any of the aforeſaid Places 'in any other Ship or Veſſel; as alſo of the Ship or Veſſel, with all 'its Guns, Furniture, Tackle, Ammunition and Apparel; one 'third Part thereof to his Majeſty, his Heirs, and Succeſſors; one 'third Part to the Governor of ſuch Land, Plantation, Iſland or 'Territory, where ſuch Default ſhall be committed, in caſe the ſaid 'Ship or Goods be there ſeiz'd; or otherwiſe, that third Part alſo 'to his Majeſty, his Heirs and Succeſſors; and the other third Part 'to him or them who ſhall ſeize, inform, or ſue for the ſame in any 'Court of Record, by Bill, Information, Plaint, or other Action, 'wherein no Eſſoign, Protection, or Wager of Law ſhall be allow-'ed. And all Admirals and other Commanders at Sea of any Ships 'of War, or other Ships, having Commiſſion from his Majeſty, or 'from his Heirs or Succeſſors, are hereby authoriz'd, and ſtrictly 'requir'd to ſeize and bring in as Prize, all ſuch Ships or Veſſels 'as ſhall have offended contrary hereunto, and deliver them to the 'Court of Admiralty, there to be proceeded againſt, and in caſe 'of Condemnation, one Moiety of ſuch Forfeiture ſhall be to the 'uſe of ſuch Admirals or Commanders, and their Companies, to 'be divided and proportion'd amongſt them according to the Rules 'and Orders of the Sea in caſe of Ships taken as Prize, and the o-'ther Moiety to the uſe of his Majeſty, his Heirs and Succeſſors.

II. And be it enacted, 'That no Alien, or Perſon not born with-'in the Allegiance of our Sovereign Lord the King, his Heirs and 'Succeſſors, or naturaliz'd, or made a free Denizen, ſhall from 'and after the firſt Day of *February*, 1661. exerciſe the Trade or 'Occupation of a Merchant or Factor in any the ſaid Places, upon 'pain of the Forfeiture and Loſs of all his Goods and Chattels, or 'which are in his Poſſeſſion; one third to his Majeſty, his Heirs 'and Succeſſors; one third to the Governour of the Plantation 'where ſuch Perſon ſhall offend; and the other third to him or 'them that will inform or ſue for the ſame in any of his Majeſty's 'Courts, in the Plantation where ſuch Offence ſhall be committed: 'And all Governors of the ſaid Lands, Iſlands, Plantations, or 'Territories, and every of them, are hereby ſtrictly requir'd and 'commanded, and all who hereafter ſhall be made Governors of 'any ſuch Iſlands, Plantations, or Territories, by his Majeſty, his 'Heirs or Succeſſors, ſhall before their Entrance into their Go-'vernment, take a ſolemn Oath to do their utmoſt; that every 'the afore-mention'd Clauſes, and all the Matters and Things

'therein contain'd, ſhall be punctually, and *bona fide* obſerv'd, ac-
'cording to the true Intent and Meaning thereof: And upon Com-
'plaint and Proof made before His Majeſty, his Heirs or Succeſ-
'ſors, or ſuch as ſhall be by them thereunto authoriz'd and appoint-
'ed, that any the ſaid Governours have been willingly and witting-
'ly negligent in doing their Duty accordingly, that the ſaid Go-
'vernor ſo offending, ſhall be removed from his Government.

III. And it is further enacted by the Authority aforeſaid, 'That
'no Goods or Commodities whatſoever, of the Growth, Productio-
'on or Manufacture of *Africa*, *Aſia*, or *America*, or any part there-
'of, or which are deſcrib'd, or laid down in the uſual Maps, or
'Cards of thoſe Places, be imported into *England*, *Ireland*, or *Wales*,
'Iſlands of *Guernſey* or *Jerſey*, or Town of *Berwick* upon *Tweed*,
'in any other Ship or Ships, Veſſel or Veſſels whatſoever, but in
'ſuch as do truly and without Fraud belong only to the People of
'*England*, and *Ireland*, Dominion of *Wales*, or Town of *Berwick*
'upon *Tweed*, or of the Lands, Iſlands, Plantations or Territories
'in *Aſia*, *Africa*, or *America*, to his Majeſty belonging as the Pro-
'prietors and right Owners thereof, and whereof the Maſter and
'three Fourths at leaſt of the Mariners are *Engliſh*, under the Pe-
'nalty of the Forfeiture of all ſuch Goods and Commodities, and
'of the Ship or Veſſel in which they were imported, with all her
'Guns, Tackle, Furniture, Ammunition and Apparel; one Moiety
'to his Majeſty, his Heirs and Succeſſors; and the other Moiety to
'him or them who ſhall ſeize, inform, or ſue for the ſame in any
'Court of Record, by Bill, Information, Plaint, or other Action,
'wherein no Eſſoign, Protection or Wager of Law ſhall be allow'd.

IV. And it is further enacted by the Authority aforeſaid, 'That
'no Goods or Commodities, that are of Foreign Growth, Productio-
'on or Manufacture, and which are to be brought into *England*,
'*Ireland*, *Wales*, the Iſlands of *Guernſey* and *Jerſey*, or Town of
'*Berwick* upon *Tweed*, in *Engliſh* built Shipping, or other Shipping
'belonging to ſome of the aforeſaid Places, and navigated by *En-*
'*gliſh* Mariners as aforeſaid, ſhall be ſhipped or brought from any
'other Places or Countries, under the Penalty of the Forfeiture of
'all ſuch the aforeſaid Goods, as ſhall be imported from any other
'Place or Country, contrary to the true Intent or Meaning thereof;
'as alſo of the Ship in which they were imported, with all her Guns,
'Furniture, Ammunition, Tackle and Apparel; one Moiety to his
'Majeſty, his Heirs and Succeſſors, and the other Moiety to him or
'them that ſhall ſeize, inform, or ſue for the ſame in any Court of
'Record, to be recover'd as is before expreſs'd.

V. And it is further enacted by the Authority aforeſaid, 'That any
'ſort of Ling, Stock fiſh, Pilchard, or any other kind of dried or
'ſalted Fiſh, uſually fiſhed for and caught by the People of *England*,
'*Ireland*, *Wales*, or Town of *Berwick* upon *Tweed*, or any ſort of Cod-
'fiſh,

'fiſh, or Herring, or any Oil or Blubber made, or that ſhall be made 'of any kind of Fiſh whatſoever, or Whale-fins, or Whale-bones, 'which ſhall be imported into *England*, *Ireland*, *Wales*, or Town 'of *Berwick* upon *Tweed*, not having been caught in Veſſels truly 'and properly belonging thereunto, as Proprietors and right Own-'ers thereof, and the ſaid Fiſh cured, ſaved and dried, and the Oil 'and Blubber aforeſaid (which ſhall be accounted and pay as Oil) 'not made by the People thereof, and ſhall be imported into *Eng-*'*land*, *Ireland*, *Wales*, or Town of *Berwick* upon *Tweed*, ſhall pay 'double Aliens Cuſtoms.

VI. And be it further enacted by the Authority aforeſaid, 'That 'from henceforth it ſhall not be lawful to any Perſon or Perſons 'whatſoever, to load, or cauſe to be loaden and carried in any 'Bottom or Bottoms, Ship or Ships, Veſſel or Veſſels whatſoever, 'whereof any Stranger or Strangers born (unleſs ſuch as be De-'nizens or Naturaliz'd) be Owners, Part-Owners, or Maſter, and 'whereof three Fourths of the Mariners at leaſt ſhall not be *En-*'*gliſh*, any Fiſh, Victual, Wares, Goods, Commodities or Things, 'of what Kind or Nature ſoever the ſame ſhall be, from one Port 'or Creek of *England*, *Ireland*, *Wales*, Iſlands of *Guernſey* or *Jerſey*, 'or Town of *Berwick* upon *Tweed*, to another Port or Creek of the 'ſame, or of any of them, under Penalty for every one that ſhall 'offend contrary to the true meaning of this preſent Act, to for-'feit all ſuch Goods as ſhall be loaden and carried in any ſuch Ship 'or Veſſel, together with the Ship or Veſſel, and all her Guns, 'Ammunition, Tackle, Furniture and Apparel; one Moiety to 'his Majeſty, his Heirs and Succeſſors; and the other Moiety to 'him or them that ſhall inform, ſeize, or ſue for the ſame in any 'Court of Record, to be recovered in manner aforeſaid.

VII. And it is further enacted by the Authority aforeſaid, 'That 'where any Eaſe, Abatement, or Privilege is given in the Book of 'Rates, to Goods or Commodities, imported or exported in *Engliſh* 'built Shipping, that is to ſay—Shipping built in *England*, *Ireland*, '*Wales*, Iſlands of *Guernſey* or *Jerſey*, or Town of *Berwick* upon '*Tweed*, or in any the Lands, Iſlands, Dominions and Territories 'to His Majeſty in *Africa*, *Aſia*, or *America*, belonging, or in his 'Poſſeſſion, that is always to be underſtood and provided, that the 'Maſter and three fourths of the Mariners of the ſaid Ships at leaſt 'be alſo *Engliſh*, and that were it is requir'd, that the Maſter and 'three fourths of the Mariners be *Engliſh*, that the true Intent 'and Meaning thereof is, that they ſhould be ſuch during the whole 'Voyage, unleſs in caſe of Sickneſs, Death, or being taken Priſo-'ners in the Voyage, to be proved by the Oath of the Maſter, or 'other chief Officer of ſuch Ships.

VIII. And it is further enacted by the Authority aforeſaid, 'That 'no Goods or Commodities of the Growth, Production, or Manu-

facture

'facture of *Muſcovy*, or of any the Countries, Dominions or Territories to the Great Duke or Emperor of *Muſcovy* or *Ruſſia* belonging; as alſo that no ſorts of Maſts, Timber or Boards, no foreign Salt, Pitch, Tar, Roſin, Hemp or Flax, Raiſins, Figs, Prunes, Olive Oil, no ſort of Corn or Grain, Sugar, Pot-aſhes, Wines, Vinegar, or Spirits called *Aqua Vitæ* or Brandy Wine, ſhall from and after the Firſt Day of *April* 1661 be imported into *England*, *Wales*, or Town of *Berwick* upon *Tweed*, in any Ship or Ships, Veſſel or Veſſels whatſoever, but in ſuch as do truly and without Fraud belong to the People thereof, or ſome of them, as the true Owners and Proprietors thereof, and whereof the Maſter and three fourths of the Mariners at leaſt are *Engliſh*; and that no Currants or Commodities of the Growth, Product or Manufacture of any of the Countries, Iſlands, Dominions or Territories to the *Ottoman* or *Turkiſh* Empire belonging, ſhall from and after the Firſt Day of *September* 1661 be imported into any of the fore mentioned Places in any Ship or Veſſel but which is of *Engliſh* Build, and navigated as aforeſaid, and is no other, except only ſuch foreign Ships and Veſſels as are of the Build of that Country or Place of which the ſaid Goods are the Growth, Production or Manufacture reſpectively, or of ſuch Port where the ſaid Goods can only be, or moſt uſually are firſt ſhipped for Tranſportation, and whereof the Maſter and three fourths of the Mariners at leaſt are of the ſaid Country or Place, under the Penalty and Forfeiture of Ship and Goods, to be diſpoſed and recovered as in the foregoing Clauſe.

IX. Provided always, and be it hereby enacted by the Authority aforeſaid, 'That for the Prevention of the great Frauds daily uſed in colouring and concealing of Aliens Goods or Wines of the Growth of *France* or *Germany*, which from and after the 20th Day of *October* 1660 ſhall be imported into any the Ports and Places aforeſaid in any other Ship or Veſſel than which doth truly and without Fraud belong to *England*, *Ireland*, *Wales*, or Town of *Berwick* upon *Tweed*, and navigated with the Mariners thereof, as aforeſaid, ſhall be deemed Aliens Goods, and pay all Strangers Cuſtoms and Duties to his Majeſty, his Heirs and Succeſſors, as alſo to the Town or Port into which they ſhall be imported; and that all ſorts of Maſts, Timber or Boards, as alſo all foreign Salt, Pitch, Tar, Roſin, Hemp, Flax, Raiſins, Figs, Prunes, Olive Oil, all ſorts of Corn or Grain, Sugar, Pot-Aſhes, or *Aqua Vitæ* (commonly called Brandy Wine) Wines of the Growth of *Spain*, the Iſlands of the *Canaries*, *Portugal*, *Madera*, or Weſtern Iſlands, and all the Goods of the Growth and Production of *Muſcovy* or *Ruſſia*, which from and after the Firſt

'Day

'Day of *April* 1661 shall be imported into any of the aforesaid Places in any other than such Shipping, and so navigated; 'and all Currants and *Turky* Commodities which from and after 'the First Day of *September* 1661 shall be imported into any the 'Places aforesaid, shall be deemed Aliens Goods, and pay accordingly to his Majesty, his Heirs and Successors, and to the Town 'or Port into which they shall be imported.

X. And for Prevention of Frauds which may be used in colouring or buying foreign Ships, be it enacted by the Authority aforesaid, and it is hereby enacted, 'That from and after the First Day 'of *April* 1661 no foreign built Ship or Vessel whatsoever shall 'be deemed or pass as a Ship to *England*, *Ireland*, *Wales*, or Town 'of *Berwick*, or any of them belonging, or enjoy the Benefit or 'Privilege of such a Ship or Vessel, until such time that he or 'they claiming the said Ship or Vessel to be theirs, shall make appear to the chief Officer or Officers of the Custom in the Port 'next to the Place of his or their Abode, that he or they are not 'Aliens, and shall have taken an Oath before such chief Officer or 'Officers, who are hereby authorized to administer the same, that 'such Ship or Vessel was *bona fide*, and without Fraud by him 'or them, bought for a valuable Consideration, expressing the 'Sum, as also the Time, Place, and Persons for whom it was 'bought, and who are his or their Part Owners (if he have any) 'all which said Part Owners shall be liable to take the same Oath 'before the chief Officer or Officers of the Custom-House of the 'Port next to the Place of their Abode, and that no Foreigner directly or indirectly hath any Part, Interest or Share therein, and 'upon such Oath he or they shall receive a Certificate under the 'Hand and Seal of the said chief Officer or Officers of the Port 'where such Person or Persons so making Oath do reside, whereby such Ship or Vessel may for the future pass, and be deemed 'as a Ship belonging to the said Port, and enjoy the Privilege of 'such a Ship or Vessel; and the said Officer or Officers shall keep 'a Register of all such Certificates as he or they shall so give, and 'return a Duplicate thereof to the chief Officers of the Customs 'at *London* for such as shall be granted in *England*, *Wales*, and '*Berwick*, and to the chief Officers of the Customs at *Dublin* for 'such as shall be given in *Ireland*, together with the Names of 'the Person or Persons from whom such Ship was bought, and 'the Sum of Money which was paid for her, as also the Names 'of all such Persons who are Part Owners of her, if any such be.

XI. And it is further enacted by the Authority aforesaid, 'That 'if any Officer of the Customs shall from and after the First Day 'of *April* allow the Privilege of bringing a Ship or Vessel to *England*,

'*land*, *Ireland*, *Wales*, Town of *Berwick*, or any of them belonging to 'any foreign built Ship or Veſſel, until ſuch Certificate be before 'them produc'd, or ſuch Proof or Oath taken before them; or if 'any Officer of the Cuſtoms ſhall allow the Privilege of an *Engliſh* 'built Ship, or any other Ship to any the aforeſaid Places belong-'ing, to an *Engliſh* or foreign built Ship coming into any Port; 'and making Entry of any Goods, until Examination whether the 'Maſter and three fourths of the Mariners be *Engliſh*, or ſhall 'allow to any foreign built Ship bringing in the Commodities of 'the Growth of the Country where it was built, the Privilege by 'this Act to ſuch Ship given, until Examination and Proof whe-'ther it be a Ship of the Built of that Country, and that the Ma-'ſter and three fourths of the Mariners are of that Country; or 'if any Perſon who is or ſhall be made Governor of any Lands, 'Iſlands, Plantations or Territories in *Africa*, *Aſia*, or *America*, 'by his Majeſty, his Heirs or Succeſſors, ſhall ſuffer any foreign 'built Ship or Veſſel to load or unload any Goods or Commodi-'ties within the Precincts of their Governments, until ſuch Cer-'tificate be produc'd before them, or ſuch as ſhall be by them ap-'pointed to view the ſame, and Examination whether the Maſter 'and three fourths of the Mariners at leaſt be *Engliſh*; that for 'the firſt Offence ſuch Officer of the Cuſtoms and Governors 'ſhall be put out of their Places, Offices or Governments.

XII. Provided always, 'That this, or any thing therein con-'tained, extend not or be meant to reſtrain or prohibit the Im-'portation of any the Commodities of the *Streights* or *Levant* Seas 'loaden in *Engliſh* built Shipping, and whereof the Maſter and 'three fourths of the Mariners are at leaſt *Engliſh*, from the uſual 'Ports or Places for lading them heretofore within the ſaid *Streights* 'or *Levant* Seas, tho' the ſaid Commodities be not of the very 'Growth of the ſaid Places.

XIII. Provided alſo, 'That this Act, or any thing therein, extend 'not or be meant to reſtrain the importing of any *Eaſt India* Com-'modities loaden in *Engliſh* built Shipping, and whereof the Ma-'ſter and three fourths of the Mariners at leaſt are *Engliſh*, from 'the uſual Place or Places for lading of them in any part of thoſe 'Seas, to the Southward and Eaſtward of *Cabo bona Speranza*, al-'tho' the ſaid Ports be not the very Places of their Growth.

XIV. Provided alſo, 'That it ſhall and may be lawful to and 'for any of the People of *England*, *Ireland*, *Wales*, Iſlands of *Guern-'ſey* or *Jerſey*, or Town of *Berwick* upon *Tweed*, in Veſſels or Ships 'to them belonging, and whereof the Maſter and three Fourths 'of the Mariners at leaſt are *Engliſh*, to load and bring in from 'any of the Ports of *Spain* or *Portugal*, or Weſtern Iſlands, com-'monly called *Azores* or *Madera*, or *Canary* Iſlands, all ſorts of 'Goods or Commodities of the Growth, Production or Manufa-'cture of the Plantations or Dominions of either of them reſpe-'ctively.

XV. Pro-

XV. Provided always, 'That this Act, or any thing therein contained, extend not to Bullion, nor yet to any Goods taken, or 'that shall be *bona fide* taken by way of Repriſal by any Ship or 'Ships belonging to *England*, *Ireland*, *Wales*, Iſlands of *Guernſey* 'or *Jerſey*, or Town of *Berwick* upon *Tweed*, and whereof the Maſter and three fourths of the Mariners at leaſt are *Engliſh*, having 'Commiſſion from his Majeſty, his Heirs or Succeſſors.

XVI. Provided always, 'That this Act, or any thing therein 'contained, ſhall, or be not conſtrued to extend to lay Aliens Duties upon any Corn of the Growth of *Scotland*, or any Salt made 'in *Scotland*, nor any Fiſh caught, ſaved, and cured by the People 'of *Scotland*, and imported directly from *Scotland* in *Scotch* built 'Ships, and whereof the Maſter and three fourths of the Mariners 'are of his Majeſty's Subjects, nor to any Seal Oil of *Ruſſia* imported from thence into *England*, *Ireland*, *Wales*, or Town of *Berwick* upon *Tweed*, in Shipping *bona fide* to ſome of the ſaid Places 'belonging, and whereof the Maſter and three fourths of the Mariners at leaſt are *Engliſh*.

XVII. Provided alſo, and it is hereby enacted, 'That every Ship 'or Veſſel belonging to any the Subjects of the *French* King, which 'from and after the 20th Day of *October* 1660 ſhall come into any 'Port, Creek, Harbour or Road of *England*, *Ireland*, *Wales*, or 'Town of *Berwick* upon *Tweed*, and ſhall there lade or unlade any 'Goods or Commodities, or take in or ſet aſhore Paſſengers, ſhall 'pay to the Collector of his Majeſty's Cuſtoms in ſuch Port, Creek, 'Harbour or Road, for every Tun of which the ſaid Ship or Veſſel 'is of Burthen, to be computed by ſuch Officer of the Cuſtoms as 'ſhall be thereunto appointed, the Sum of 5 *s.* current Money of '*England*, and that no ſuch Ship or Veſſel be ſuffered to depart out 'of ſuch Port, Creek, Harbour or Road, until the ſaid Duty be 'fully paid, and that this Duty ſhall continue to be collected, levied and paid for ſuch Time as a certain Duty of 50 *Sols per* Ton, 'lately impoſed by the *French* King, or in any part thereof, ſhall 'continue to be collected upon the Shipping of *England* lading in '*France*, and Three Months after, and no longer.

XVIII. And it is further enacted by the Authority aforeſaid, 'That from and after the Firſt Day of *April* 1661 no Sugars, Tobacco, Cotton, Wooll, Indicoes, Ginger, Fuſtick, or other Dying Wood of the Growth, Production or Manufacture of any '*Engliſh* Plantations in *America*, *Aſia*, or *Africa*, ſhall be ſhipped, 'carried, conveyed or tranſported from any of the ſaid *Engliſh* 'Plantations to any Land, Iſland, Territory, Dominion, Port or 'Place whatſoever, other than to ſuch other *Engliſh* Plantations 'as do belong to his Majeſty, his Heirs and Succeſſors, or to the

'Kingdom of *England* or *Ireland*, or Principality of *Wales*, or Town 'of *Berwick* upon *Tweed*, there to be laid aſhore, under the Penal- 'ty of the Forfeiture of the ſaid Goods, or the full Value thereof, 'as alſo of the Ship, with all the Guns, Tackle, Apparel, Ammu- 'nition and Furniture, the one Moiety to the King's Majeſty, his 'Heirs and Succeſſors, and the other Moiety to him or them that 'ſhall ſeize, inform, or ſue for the ſame in any Court of Record, 'by Bill, Plaint, or Information, wherein no Eſſoign, Protection, 'or Wager of Law, ſhall be allowed.

XIX. And it is further enacted by the Authority aforeſaid, 'That 'for every ſuch Ship or Veſſel which from and after the 25th Day 'of *December* 1660 ſhall ſet Sail out of or from *England*, *Ireland*, '*Wales*, or Town of *Berwick* upon *Tweed*, for any *Engliſh* Planta- 'tion in *America*, *Aſia*, or *Africa*, ſufficient Bond ſhall be given, 'with one Surety, to the chief Officers of the Cuſtom-Houſe of 'ſuch Port or Place from whence the ſaid Ship ſhall ſet Sail, to 'the Value of 1000 *l.* if the Ship be of leſs Burthen than 100 Tuns, 'and of the Sum of 2000 *l.* if the ſaid Ship be of greater Burthen: 'That in Caſe the ſaid Ship or Veſſel ſhall load any of the ſaid 'Commodities at any of the ſaid *Engliſh* Plantations, the ſame 'Commodities ſhall be by the ſaid Ship brought to ſome Port of '*England*, *Ireland*, *Wales*, or Town of *Berwick* upon *Tweed*, and 'ſhall there unload and put aſhore the ſame (the Danger of the 'Seas only excepted) and for all Ships coming from any other Port 'or Place to any of the aforeſaid Plantations, who by this Act are 'permitted to Trade there: That the Governor of ſuch *Engliſh* 'Plantations ſhall, before the ſaid Ship or Veſſel be permitted to 'load on board any of the ſaid Commodities, take Bond in Manner 'and to the Value aforeſaid for each reſpective Ship or Veſſel: 'That ſuch Ship or Veſſel ſhall carry all the aforeſaid Goods that 'ſhall be laden on board in the ſaid Ship to ſome other of his Ma- 'jeſty's Plantations, or to *England*, *Ireland*, *Wales*, or Town of '*Berwick* upon *Tweed*; and that every Ship or Veſſel which ſhall 'load or take on board any of the aforeſaid Goods, until ſuch Bond 'be given to the ſaid Governor, or Certificate produced from the 'Officers of any Cuſtom Houſe of *England*, *Ireland*, *Wales*, or Town 'of *Berwick* upon *Tweed*, that ſuch Bonds have there been duly 'given, ſhall be forfeited, with all her Guns, Tackle, Apparel and 'Furniture, to be employed and recovered in manner as aforeſaid. 'And the ſaid Governors, and every of them, ſhall twice in every 'Year after the Firſt Day of *January* 1660 return true Copies of 'all ſuch Bonds by him or them taken, to the chief Officers of the 'Cuſtoms in *London*.

I have

I have already told my Opinion concerning that part of this Act that relates to foreign Mariners in the Appendix, where I have briefly ſet down the Reaſons why I think they ſhould be encouraged to remain amongſt us.

As to the other Clauſes of this Act, I don't ſee any thing that can give occaſion to make any Remark.

One Deficiency was obſerved in it in the beginning of the Reign of King *James* II. and that was the want of a Clauſe to prevent the buying of foreign Ships, which was become very cuſtomary, becauſe Merchants could purchaſe them cheaper abroad than build them here, by which our Shipwrights, and other Tradeſmen depending that way, were mightily diſcouraged, and the Employment of many Ships which uſed to bring in Naval Stores, was loſt, which Conſiderations gave occaſion to the following Act to encourage the building of Ships in *England*, which may juſtly be looked upon as a Part of, or an Appendix to the Navigation Act.

It's probable I may elſewhere conſider ſome Clauſes of the Navigation Act, with relation to the Plantation, and ſome other Trades.

Anno 1 *Jacobi* II. *Regis.*

An Act to encourage the building of Ships in *England*.

'WHereas for ſome Years paſt, and more eſpecially ſince the 'laying a Duty upon Coals brought into the River of 'Thames, there has been obſerved a more than ordinary Decay 'of building Ships in *England*, and particularly in *Newcaſtle*, *Hull*, 'Yarmouth, *Ipſwich*, *Alborough*, *Dunwich*, *Walderſwich*, *Woodbridge*, 'and *Harwich*, where many ſtout Ships were Yearly built for the 'Coal and other Trades, which was of great Uſe to his Majeſty 'in time of War, and a Nurſery for able Seamen, but by the Diſ-'couragement that Trade hath ever ſince lain under, occaſioned 'chiefly by the Freedom which foreign Ships and Veſſels bought 'and brought into this Kingdom, have enjoyed in the Coal and 'other In-land Trades, equal to that of *Engliſh* built Ships, the 'Merchants, Owners, and others, have not been able to build 'as formerly, which hath cauſed many of our *Engliſh* Shipwrights, 'and Caulkers, and Seamen, to ſeek their Employments abroad, 'whereby the Building Trade is not only loſt in ſeveral of the 'afore-mentioned Places, and in others very much decayed, but 'alſo the Importation of Timber, Plank, Hemp, Pitch, Tar, Iron, 'Maſts, Canvas, and other Commodities uſed in building and fit-'ting out Ships, are greatly leſſened, to the apparent Prejudice 'of his Majeſty's Cuſtoms, the Loſs of a conſiderable Employment 'for Shipping, and conſequently of all other Trades depending 'thereupon, to the too great Advantage of foreign Nations.

II. Be it therefore enacted by the King's moſt Excellent Majeſty, by and with the Advice and Conſent of the Lords Spiritual and Temporal and Commons in this preſent Parliament aſſembled, and by the Authority of the ſame, 'That all foreign built Ships brought 'into the Kingdom of *England*, Dominion of *Wales*, or Town of 'Berwick upon *Tweed*, and employed in carrying or tranſporting 'any Goods or Merchandizes from Port to Port, as aforeſaid, for 'every Voyage ſhall pay to his Majeſty, his Heirs and Succeſſors, 'at the Port of Delivery of the reſpective Ladings (before the De-'livery thereof) over and above all Duties now paid, or that ſhall 'hereafter be payable by our *Engliſh* built Ships, the Sum of 5 *s.* 'per Tun, to be collected and received by ſuch Perſon or Perſons 'as his Majeſty ſhall appoint in that Behalf, one Moiety whereof 'to be for the Uſe of the Cheſt at *Chatham*, the other Moiety to 'the Maſter, Wardens and Aſſiſtants of the *Trinity-Houſe* of *Dept-'ford-Strond*, for and towards the Relief of wounded and decayed 'Seamen, their Widows and Children.

III. And whereas there are now in *England* belonging or pretended to belong to *Engliſh* Owners, many foreign built Ships and Veſſels which do tranſport Coals and other Goods from Port to Port in *England*, as aforeſaid, paying no more Duty than *Engliſh* Ships pay, be it further enacted by the Authority aforeſaid, 'That 'all ſuch foreign Ships (which are not free) for every Voyage ſhall 'pay after the Feaſt of St. *Michael* 1689 at the Rate of 12 *d. per* 'Tun over and above all Duties now paid, or that ſhall hereafter 'be payable by *Engliſh* built Ships, to be diſpoſed of unto the 'Cheſt at *Chatham*, and the *Trinity-Houſe* of *Deptford-Strond*, by 'Moieties, as aforeſaid, and for the Uſes before mentioned; which 'ſaid laſt mentioned Duty of 12 *d. per* Tun alſo ſhall be collected 'and received in manner aforeſaid, at the reſpective Ports of De-'livery of their reſpective Ladings, before the Delivery thereof.

IV. And be it further enacted by the Authority aforeſaid, 'That 'his Majeſty ſhall have the ſame Remedy for receiving and reco-'vering of the Duties above mentioned as is provided in a certain 'Act of Parliament made in the Twelfth Year of King *Charles* II. 'entituled, *A Subſidy granted to the King of Tonage and Poundage, 'and other Sums of Money payable upon Merchandize exported and 'imported.*

V. Provided always, 'That the ſaid Duties of 5 *s. per* Ton, 'and 12 *d. per* Ton, or any part thereof, hereby impoſed upon 'ſuch foreign built Ships which have been heretofore, or ſhall 'hereafter be bought or brought into *England*, ſhall not be ſet to 'Farm to any Perſon or Perſons for any Term or Time, or for any 'Rate or certain Payment whatſoever, but that the ſeveral Perſons

'who

'who ſhall be appointed to receive the ſame, ſhall actually receive 'the ſaid whole Duty payable by every ſuch Ship, and account 'for the ſame, as by this Act is directed.

And it having been thought neceſſary during the laſt War to encourage the building of ſtout and defenſible Ships, which might be in ſome reſpect an Addition to the Strength of the Fleet, the Parliament thought fit to paſs the following Act for that Effect, in which there is nothing that has need of any Remarks or Explication.

Anno 5 & 6 Gulielmi & Mariæ Regis & Reginæ. Cap. 24.

An Act for building good and defenſible Ships.

'WHereas the Wealth and Safety of this Nation are much 'concerned in the Number and Strength of Shipping, 'now for the better Encouragement of building good and defen- 'ſible Ships, be it enacted by the King and Queen's moſt Excellent 'Majeſty, by and with the Advice and Conſent of the Lords Spi- 'ritual and Temporal aſſembled, and by the Authority of the 'ſame, that all and every Perſon or Perſons that ſhall within the 'Space of Ten Years, from and after the Firſt Day of *May* 1694, 'build or cauſe to be built within any of their Majeſties Domi- 'nions any Ships or Veſſels of Three Decks, reckoning the Orlop 'for one, with a Fore-caſtle, Quarter-deck, and Round-houſe, 'and Six Foot between each Deck from Plank to Plank, their 'Hawſers to be betwixt Decks, the ſaid Ships to be of no leſs 'than 450 Tun, and to have no leſs than Ten Gun Ports a ſide be- 'tween Decks, the ſaid Guns upon the lower Deck to be Demi- 'Culverines of Thirty Hundred at leaſt, upon the upper Deck 'and Steerage to be alſo Demi-Culverines of Two and Twenty 'Hundred Weight at leaſt, and thoſe in the Cuddy to be Six Hun- 'dred Weight at leaſt, and other Ammunition proportionably, 'ſhall for the firſt Three Voyages which the ſaid Ship or Ships 'ſhall make from their Majeſties Dominions to any foreign Parts, 'have and receive to their own proper Uſe and Benefit one Tenth 'Part of the Subſidy of Tonage and Poundage, to be paid to their 'Majeſties for all ſuch Goods and Merchandizes as ſhall be export- 'ed and imported on the ſaid Ship or Ships to and from this King- 'dom, and the Commiſſioners and Officers of their Majeſties Cu- 'ſtoms are hereby impowered and required to pay the ſame to 'the Owner and Owners of the ſaid Ship or Ships accordingly.

II. Provided always, 'That if at any time after the End of the 'Three firſt Voyages any of the ſaid Ships or Veſſels ſo built, as 'aforeſaid,

'aforeſaid, ſhall be alter'd or put into another Form of Building, 'whereby they ſhall become or made leſs defenſible than they were 'at firſt building, that even every ſuch Ship or Veſſel, with all 'the Guns, Tackle, Ammunition and Apparel thereof, ſhall be 'forfeited and loſt, the one Moiety to their Majeſties, their Heirs 'and Succeſſors, and the other Moiety to the Informer, to be re-'covered in any of their Majeſties Courts of Record, by Action 'of Debt, Bill, Plaint, or Information.

I ſhall next inſert ſome Clauſes of an Act made in the 7th and 8th Years of King *William* III. concerning the Plantation Trade, enjoining the Regiſtration of Ships.

And for a more effectual Prevention of Frauds which may be us'd to elude the Intention of this Act, by colouring foreign Ships under *Engliſh* Names, be it further enacted by the Authority aforeſaid, 'That from and after the 25th Day of *March* 1698 no Ship 'or Veſſel whatſoever ſhall be deem'd or paſs as a Ship of the 'Built of *England*, *Ireland*, *Wales*, *Berwick*, *Guernſey*, *Jerſey*, or 'of any of his Majeſty's Plantations in *America*, ſo as to be qua-'lified to Trade to, from, or in any of the ſaid Plantations, until 'the Perſon or Perſons claiming Property in ſuch a Ship or Veſſel 'ſhall regiſter the ſame as followeth; that is to ſay, if the Ship 'at the time of ſuch Regiſter doth belong to any Port in *England*, '*Ireland*, *Wales*, or Town of *Berwick* upon *Tweed*, then Proof 'ſhall be made upon Oath of one or more of the Owners of ſuch 'Ship or Veſſel before the Collector and Comptroller of his Maje-'ſty's Cuſtoms in ſuch Port; or if at the time of ſuch Regiſter the 'Ship belong to any of his Majeſty's Plantations in *America*, or 'to the Iſlands of *Guernſey* or *Jerſey*, then the like Proof to be 'made before the Governor, together with the principal Officer 'of his Majeſty's Revenue reſiding on ſuch Plantation or Iſland, 'which Oath the ſaid Governors and Officers of the Cuſtoms re-'ſpectively are hereby authorized to adminiſter in the Tenour 'following, *viz.*

Jurat A. B. *that the Ship* ... *of* ... *whereof* ... *is at preſent Maſter, being a* ... *of* ... *Tuns, was built at* ... *in the Year* ... *and that* ... *of* ... *and* ... *of*, &c. *are at preſent Owners thereof, and that no Foreigner directly or indirectly hath any Share, or Part, or Intereſt therein.*

XVIII. 'Which Oath being atteſted by the Governor or Cuſtom 'Officer reſpectively, who adminiſtred the ſame under their Hands 'and Seals, ſhall, after having been regiſtred by them, be deliver'd

'to

'to the Maſter of the Ship, for the Security of her Navigation, a 'Duplicate of which Regiſter ſhall be immediately tranſmitted to 'the Commiſſioners of his Majeſty's Cuſtoms in the Port of *London*, 'in order to be entred in a general Regiſter to be there kept for 'this purpoſe, with a Penalty upon every Ship or Veſſel Trading 'to, from, or in any of his Majeſty's Plantations in *America* after 'the ſaid 25th Day of *March*, and not having made Proof of her 'Build and Property, as is here directed, that ſhe ſhall be liable, 'as ſhe is hereby made liable to ſuch Proſecution and Forfeiture 'as any foreign Ship (except Prizes condemn'd in the High Court 'of Admiralty) would for Trading with theſe Plantations by this 'Law be liable to.

XIX. Provided always, 'That all ſuch Ships as have been or 'ſhall be taken at Sea by Letters of Mart or Repriſal, and Con-'demnation thereof made in the High Court of Admiralty of '*England* as lawful Prize, ſhall be ſpecially regiſtred, mentioning 'the Capture and Condemnation inſtead of the Time and Place of 'building, which Proof alſo upon Oath, that the entire Property 'is *Engliſh*, before any ſuch Prize ſhall be allowed the Privilege 'of an *Engliſh* built Ship, according to the meaning of this Act.

XX. Provided alſo, 'That nothing in this Act ſhall be conſtru-ed to require the regiſtring any Fiſher Boats, Hoys, Lighters, Barges, or any open Boats or other Veſſels (tho' of *Engliſh* or 'Plantation Build) whoſe Navigation is confined to the Rivers or 'Coaſts of the ſame Plantation or Place where they Trade reſpe-'ctively, but only of ſuch of them as croſs the Seas to or from 'any of the Lands, Iſlands, Places or Territories in this Act be-'fore recited, or from one Plantation to another.

XXI. And be it further enacted by the Authority aforeſaid, 'That no Ships Name regiſtred ſhall be afterwards changed with-'out regiſtring ſuch Ship *de novo*, which is hereby required to be 'done upon any Transfer of Property to another Port, and deli-'vering up the former Certificate to be cancelled, under the ſame 'Penalties and in the like Method as is herein before directed; and 'in Caſe of any Alteration of Property in the ſame Port, by the 'Sale of one or more Shares in any Ship, after regiſtring thereof, 'ſuch Sale ſhall always be acknowledged by Indorſement on the 'Certificate of the Regiſter before Two Witneſſes, in order to 'prove that the entire Property in ſuch Ships remains to ſome of 'the Subjects of *England*, if any Diſputes ariſe concerning the 'ſame.

I ſhall end the whole Diſcourſe with the following Proclamati-on, concerning the Signals to be obſerved between Merchant Ships and their Convoys.

By

By the QUEEN
A PROCLAMATION.

ANNE R.

WHereas it has been repreſented to us, that not only many Inconveniences have already happened, but that the like may hereafter attend the Trade of our Subjects, not only in their outward, but homeward bound Voyages, for want of neceſſary Inſtructions and Signals to be obſerved by the Captains of our Ships of War which ſhall have Merchant Ships and Veſſels under their Convoy, as well as by the reſpective Maſters of thoſe Ships and Veſſels; and whereas there has been prepared and laid before us by our moſt dear Conſort Prince George *of* Denmark, *our High Admiral of* England, *a Draught of ſuch Inſtructions and Signals as may be proper on this Occaſion, we therefore out of our Princely Care and Compaſſion of all our loving Subjects Trading by Sea, and for their better Protection and Security, have thought fit, by and with the Advice of our Privy Council, to iſſue out this our Royal Proclamation, hereby ſtrictly charging and requiring all Maſters of Merchant Ships and Veſſels belonging to our Subjects, not only to furniſh themſelves from time to time with the ſaid Inſtructions and Signals from the Commander in chief of the Convoy they may be under, for which Purpoſe the ſame ſhall be printed and tranſmitted to them, but alſo to take particular Care to comply with every Part of the ſaid Inſtructions, which are calculated on purpoſe for the Safety and Security of them and their Ships, and the Merchants Effects on board them.*

Given at our Court at St. *James*'s the Third Day of *May*, in the Fourth Year of our Reign, *Anno Dom.* 1705.

God ſave the QUEEN.

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APPENDIX:

BEING A

COLLECTION

Of ſeveral Valuable TRACTS relating to

Marine Affairs.

The Opinions of the moſt Eminent Lawers in the Reign of King Charles II. *in certain Caſes relating to Shipping.*

CASE I.

Concerning the Acceptation of Engliſh *Shipping.*

THERE is a threefold Acceptation of *Engliſh* Shipping, *viz.*

I. *Engliſh* Built Shipping.
II. Foreign Built Ships belonging to *Engliſh*, made free.
III. Foreign Built Ships belonging to *England*, and not made free.

To the two former are given ſeveral Privileges and Immunities, as to the Importation of Goods: And divers *Eaſes* and Abatements in point of Cuſtom upon Importation and Exportation, are given reſpectively to ſuch Shipping by the Book of Rates and other Laws, from which the latter ſort is excluded.

Anno 1673. And by the late Act of Aſſeſſments, made in the 25*th* Year of his Majeſty's Reign, there is an Encouragement given to the Exportation of Corn in *Engliſh* Shipping, under certain other Limitations in the ſaid Clauſe expreſſed.

QUÆRE.

Whether by *Engliſh Shipping* in the ſaid Clauſe of the Act of Aſſeſſments, is to be underſtood only *Engliſh* built Shipping, or Foreign built Ships belonging to *Engliſh*, and made free?

Robert Stephens, *Eſq*; *his Opinion.* I do conceive, that in caſe a Foreign built Ship be made free, according to the Act againſt Frauds, which makes her a Ship belonging to *England*, ſhe will be an *Engliſh* Ship within the Act of Aſſeſſment: An *Engliſh* Ship, and a Ship belonging to *England*, being, as I take it, the ſame.

But becauſe the Act requires the Payment of Money out of the King's Coffers, to ſuch Ships exporting Corn; and in caſe the Cuſtomers pay thoſe Moneys to the Merchant, they muſt pay it over again to the King, in caſe unduly paid. 'Tis fit my Lord Treaſurer ſhould be acquainted with it, and have the Opinion of the Barons, if he ſees Occaſion.

Robert Stephens.

Sir William Jones *his Opinion.* I think it ſhould be only underſtood of *Engliſh* built and Foreign Ships made free, and not of ſuch Ships as, being Foreign built, do belong to *Engliſh* Men, and are not made free: For the former Acts do declare what ſhall be accounted *Engliſh* Shipping, and what Foreign; and it was not the Intent of this latter Act, to ſet at large and evacuate the former Laws, declaring *Engliſh* Shipping; and as the former Acts were made for advancing of Navigation in *Engliſh* Ships, ſo nothing in this Act ſeems to intend the Decreaſe thereof.

Alſo I think the Words *Engliſh* Shipping, have a Reference to theſe former Acts, and ſeem to intend more than Ships belonging to *Engliſh*, and navigated by *Engliſh* Mariners; and if it ſhould have

have another Senſe, it would be the Occaſion of loſing the Ends of the former Acts.

William Jones.

Tho' theſe two Opinions have particular Relation to the Act of Aſſeſſments; yet they ſerve for general Inſtruction, as being an Explanation of the Words *Engliſh Shipping*.

CASE II.

Concerning making Foreign Ships Free

BY the Act of Navigation it is enacted, That after the firſt of *April* 1661, no Foreign built Ship or Veſſel whatſoever, ſhall be deem'd or paſs as a Ship or Veſſel belonging to *England*, &c. or enjoy the Benefit or Privilege of ſuch a Ship, until the Owners prove by Oath they are not Aliens; and that the Ships were, *bona Fide*, and without Fraud, bought by them for valuable Conſiderations, *&c.* and that no Foreigner directly or indirectly hath any Part, Intereſt, or Share therein; and upon ſuch Oath, the Officers of the Cuſtoms to give Certificate, and to keep a Regiſter, *&c.*

By the Act for the preventing Frauds, for the better encreaſing Shipping and Navigation, it is enacted, That the Officers of the Cuſtoms in all the Ports give an Account to the Collectors and Surveyors of the Port of *London*, of all Foreign built Ships in their Ports, owned and belonging to the People of *England*, &c. for which Certificate hath been made according to the ſaid Act of Navigation, and that the ſaid Collectors and Surveyors ſhall make a perfect Liſt of ſuch Ships, atteſted under their Hands, and tranſmit the ſame into his Majeſty's Court of Exchequer, on or before the Month of *December* 1662, there to remain on Record; and that no foreign built Ships, other than ſuch as ſhall be, *bona fide*, bought before the firſt of *October* 1662, and expreſly nam'd in the ſaid Liſt, ſhall enjoy the Privilege of a Ship belonging to *England*, altho' owned or named by the *Engliſh* (except ſuch Ships only as ſhall be taken at Sea *per* Letters of Mart or Reprizal and Condemnation made in the Court of Admiralty as Lawful Prize) but all ſuch Ships ſhall be deem'd as Aliens Ships, and be liable to 14 Car. 2.

all Duties as Aliens Ships are liable unto, by vertue of the ſame Act for Increaſe of Shipping and Navigation.

QUÆRE.

Whether his Majeſty by his Warrant under his Sign Manual, can make foreign built Ships Free, and to enjoy the Privilege of *Engliſh* built Ships, or by what other Ways or Means it may be done?

Sir William Jones, *Solicitor General, his Opinion.*

I am of Opinion, that a Warrant under the Sign of his Majeſty's Manual, will not be ſufficient; but I think by Letters Patents under his Great Seal, he may diſpenſe with the Statute, and grant unto the Owners ſuch Privilege with a *Non Obſtante* to the Statute; and by the ſame Letters Patents the ſame may be granted for ſeveral Ships.

William Jones.

CASE III.

Concerning the Freedom of Prize-Ships.

12 Car. 2. BY the Act of Navigation, all foreign built Ships prove by Oath that they do not belong to Aliens, &c. and take a Certificate under the Chief Officer's Hand and Seal, Merchants enjoy the Privilege of Free Ships.

14 Car. 2. By the Act of Frauds, no foreign built Ship is to enjoy the Privilege of a Ship belonging to *England*, unleſs liſted and tranſmitted into the Exchequer, in or before the Month of *December* 1662; except ſuch Ships only as ſhall be taken at Sea by Letters of Mart, or Reprizal and Condemnation made in the Court of Admiralty as Lawful Prize.

19 Car. 2. By the Preamble of the Stat. of 19 *Car.* 2. it is declared and implyed, that Prize-Ships may not be free for Trade, but by Act of Parliament.

QUÆ-

QUÆRE.

Whether Ships taken as Prize, and condemn'd in the Court of Admiralty, have Right to be made Free Ships, notwithſtanding the Preamble of the ſaid Statute?

I conceive they have. — Robert Stephens, *Eſq; his Opinion.*

QUÆRE.

Whether ſuch Ships, if capable of Freedom, are not, according to the Act of Navigation, to have Certificate, and make Oath; or if the Officers of the Cuſtoms may refuſe to admit them the Privileges of an *Engliſh* Ship, until ſuch Certificate or Proof made as aforeſaid;

I think they ought to follow the Rules in the Act of Navigation. — *The ſame Man's Opinion.*

QUÆRE.

Whether upon ſuch Proof, the Officer of the Navigation may refuſe to give Certificate?

I think he cannot. — *The ſame Man's Opinion.*

QUÆRE.

Whether upon ſuch Proof, without Certificate of the Officers of the Navigation, the Officers of the Cuſtoms are not to admit the Privilege of an *Engliſh* Ship?

Upon making Oath, as by the Act of Navigation is appointed, I conceive the Officers of the Cuſtoms may allow the Privilege. — *The ſame Man's Opinion.*

Robert Stephens

CASE.

CASE IV.

Concerning Ships built in Ireland, *if* Engliſh *Ships*; *and* Iriſh *Men*, Engliſh *Men*.

BY the Act of Navigation made in the 12*th* Year of his Majeſty's Reign, it is explain'd, that where any Eaſe or Abatement is given by the Book of Rates to any Goods or Commodities exported in *Engliſh* Shipping, that is to ſay, in Shipping built in *England*, *Ireland*, or *Wales*, Iſland of *Jerſey* and *Guernſey*, or Town of *Berwick* upon *Tweed*, or any the Iſlands, Lands, Plantations, *&c.* to his Majeſty belonging, that it is always underſtood that the Maſter and three fourths of the Mariners be *Engliſh*. By the late Act of Aſſeſſment made in the 25*th* Year of his Majeſty's Reign, there are certain Sums given by way of Encouragement to the Exporter of certain ſorts of Corn therein mention'd, in *Engliſh* Shipping, whereof the Maſter and two thirds of the Mariners are his Majeſty's Subjects.

QUÆRE.

Whether a Ship built in *Ireland*, and owned and manned by *Engliſh*, is capable, within the Intention of the Act, to receive the Encouragement upon the Exportation of Corn?

Sir William Jones *his Opinion.*

I am of Opinion, that a Ship built in *Ireland* is *Engliſh* Shipping, within the Intent of this Act.

William Jones.

CASE

CASE V.

Concerning a Denizen of Ireland *being Maſter of a Ship, if he be within the Intention of the Act.*

BY the ſaid Act of Navigation it is enacted, That no Goods or Commodities ſhall be imported into, or exported out of any Lands, Iſlands, Plantations, or Territories to his Majeſty belonging, or which hereafter may belong to his Majeſty, in *Aſia*, *Africa*, or *America*, in other Ships or Veſſels, but in ſuch as do truly and without Fraud belong to any of the ſaid Lands, Iſlands, Plantations or Territories, as the Proprietors and right Owners thereof, and whereof the Maſter and three Fourths of the Mariners at leaſt are *Engliſh*.

QUÆRE.

Whether a *Dutchman* made a Denizen of *Ireland*, being Maſter of a Ship, ſhall be underſtood an *Engliſhman*, within the Intention of the Act?

I. As to this Caſe, I am of Opinion, that a Maſter or Mariner being in *Ireland*, or any other of the King's Dominions, and having his Habitation or Reſidence there, is as much *Engliſh*, within the Intent of this Act, as if he were born in *England*; for the Word *Engliſh*, when apply'd to Maſters or Mariners, is as large, as when apply'd to Shipping; and this ſeems the clearer from the Word [*alſo*,] that the Maſter and three Fourths be alſo *Engliſh*; which Word ſeems to make the Word *Engliſh* adequate in both Relations. *Sir* William Jones *his Opinion.*

II. I think a Foreigner being made a Denizen of *Ireland*, if he have his Habitation and Reſidence there, is as much *Engliſh* as if born there; for by his Denization he is become part of the People, and one of the King's Subjects there; yet I think a Denizen of *Ireland* or *England*, nay, a natural-born Subject of either, not having his Habitation there, is not *Engliſh* within the Intent of this

this Act; for the former Words are not belonging to an *Engliſh* or *Iriſhman*, but the People of *England* or *Ireland*, and the Word *Engliſh* with the latter Words, muſt be underſtood in the ſame Senſe.

July 10. 1676.

William Jones.

CASE VI.

Concerning the Cuſtoms of Foreign Ships.

IN the Act of 12th *Car.* 2. entituled, A Subſidy granted to the King, of Tonnage and Poundage; in the Granting Part there is this Clauſe;

'And alſo one other Subſidy called Tonnage, that is to ſay, 'of all manner of Goods and Merchandize of every Merchant, 'natural-born Subject, Denizen and Alien, to be carried out of 'the Realm, or any your Majeſty's Dominions, to the ſame be-'longing, or to be brought into the ſame by way of Merchan-'dize, of the Value of 20 *s.* of the ſame Goods and Merchan-'dize, as the ſame are particularly and reſpectively rated and 'valued in the ſaid Book of Rates, herein after-mentioned, and 'referred unto, 12 *d.* and ſo after the Rate.

'And there is alſo another Clauſe at the End of the Book of 'Rates, in theſe Words: And if there ſhall happen to be brought 'in, or carry'd out of this Realm, any Goods liable to Payment 'of Cuſtom and Subſidy, which either are omitted in this Book 'of Rates, or are not now uſed to be brought in or carried out, 'or by reaſon of the great Diverſity or Value of ſome Goods, 'could not be rated; that in ſuch Caſe, every Cuſtomer or Col-'lector for the Time being, ſhall levy the ſaid Cuſtom, and Cuſ-'tom of Poundage, according to the Value and Price of ſuch 'Goods, to be affirm'd upon the Oath of the Merchant, in the 'Preſence of the Cuſtomer, Collector, Comptroller, and Survey-'or, or any two of them.

QUÆRE.

A Foreign Ship is bought beyond Sea by one of his Majeſty's Subjects, and brought into ſome Port of this Kingdom; and the ſame not being rated by the Book of Rates, whether or no it ought not

not to pay Custom *ad Valorem*, according to the afore-mentioned Clauses?

I am of the Opinion, that a Ship bought beyond Sea by one of his Majesty's Subjects, and brought into a Port of *England*, ought not to pay Custom: For tho' in a larger sense, Ships may be said to be Goods, yet the Word Goods is coupled with Merchandize, and no Man doth understand a Ship under the Word Merchandize, but rather such Goods or Commodities as are exported or imported in Ships: And by the same Reason, that a Ship bought beyond Sea, and brought into *England*, shall pay; a Ship built in *England*, and sold here, upon carrying it out, shall pay: Also, by the same Reason, Custom may be demanded for any Foreign Ship that comes into Port with Goods; for 'tis not the buying of the Commodity which makes it pay Custom, but the bringing it into Port, and landing part of the Cargo. And I believe, by the Practice of all Nations, and Consent of all Men, Ships, which are the chief Instruments of Trade, are exempted from Custom, which is laid upon the Goods they carry. If it had been intended that Ships should pay, it would plainly have been express'd in the Book of Rates, wherein tho' many things are omitted which pay, yet this is not of that Nature, as cou'd well have been forgotten. *Sir* Will. Jones's *Opinion.*

QUÆRE.

A Foreign Ship is brought in, and afterwards sold to one of his Majesty's Subjects in Port, whereby it becomes a Ship of *English* Property: Whether the same, by Virtue of the fore-mentioned Clause, is not liable to pay *ad Valorem*, as aforesaid.

I think not, for the Reasons aforesaid; yet seeing it is a Doubt to some, and seeing Prize Ships, and Ships made Free, do pay, (which in Reason seems the same, and I doubt as much of one as of the other) it may be fit to have a Tryal in this Case. *Sir* Will. Jones's *Opinion.*

The Practice of the Custom-house has been to demand the Duty of all Foreign Ships bought by *English*, and brought into any of the King's Ports; and upon Prize Ships and Ships made Free, the Duty has always been collected; and upon several other Foreign Ships of *English* Property: But the last has not yet been brought to Tryal, or other Decision.

A Perſon having paid the Duty *ad Valorem* for a Foreign built Ship bought by him, not Prize or made Free, demands the Repayment of the ſaid Money.

QUÆRE.

If the ſame were not due, ought it to be repaid, and by whom?

Sir Will. Jones's *Opinion.*

If the ſame were not due, it ought in Juſtice to be repaid by the Collector who receiv'd it, if they have not paid; and if they have, it will be fit the Party Petition the King for ſome Satisfaction.

July 11. 1676.

William Jones.

CASE. VII.

Concerning Goods taken or loſt at Sea.

BY the Act 12 *Car.* 2. (*int. al.*) it is enacted, That if any Goods and Merchandize, of any Merchant, *Engliſh* born or *Denizen*, during his Majeſty's Life, ſhall be taken by Enemies or Pirates, or periſh in the Seas, whereof the Subſides and other Duties are paid or agreed for; and that duly prov'd before the Lord Treaſurer of *England*, or Chief Baron of the Exchequer, by the Examination of the ſame Merchants, if they be alive, or their Executors, if they be dead, by two Credible Witneſſes at the leaſt, ſworn; or other reaſonable Witneſs, and Proof ſworn; then to have the Liberty to ſhip out, free of Cuſtoms, the like Quantity of ſuch Goods.

QUÆRE.

In Caſe the Merchant or Merchants be living, whether any other Proofs may be admitted to make out the Property of the Goods, Payment of Duties, or Loſs of the Goods, other than the Oaths of ſuch Merchant or Merchants, or at leaſt without Examination

mination of each of them upon Oath reſpectively before the Attorney-General?

I think the Merchant may offer Proof by others; for I think it was not but in favour of the Merchant to admit him a Witneſs, which otherwiſe he could not be in his own Caſe: But to exclude him from bringing others to make Proof, ſeems neither to be inferr'd from the Words or Intent of the Act; nor in Reaſon can the Merchant be preſumed to be preſent in all Places, and ſo cannot make Oath of what he knows not, unleſs he ſhould ſwear by Hear-ſay; and poſitive Proof muſt needs be better than ſuch a kind of Oath. *Sir* Will. Jones's *Opinion.*

William Jones.

CASE VIII.

Concerning a Ship unlading Goods in St. Helens *Road, or elſewhere at open Sea, out of any Port.*

SUppoſing the Caſe to be that any Ship does come into St. *Helens* Road, and doth there unlade into a Boat *French* Wines (*then prohibited*) which Boat by her Bulk, Proviſions, or other Circumſtances, cannot be preſumed to take them in, in order to carry them to Parts beyond the Seas, but muſt in reaſon be preſumed to take them in in order to land them as Opportunity ſhall ſerve.

I am of Opinion, this will be with the Penalties inflicted by the Act of Frauds, and within the Pole-Act (concerning *French* Goods) tho' in Truth St. *Helens* Road be no Part of the Haven for unlading Goods. *Sir* Will. Jones's *Opinion.*

William Jones. June 23. 1679.

Tho' ſome of theſe Caſes may ſeem to be obſolete at this time, yet they will give Merchants Inſight into others that happen daily, and ſerve for their Government on the ſame or the like Occaſions.

CASE IX.

Concerning Freight of Goods ſeiz'd for Cuſtoms, &c.

GOods being ſeiz'd by the Officers of the Cuſtoms, or otherwiſe;

QUÆRE.

Whether the Officers are liable to pay Freight for the Goods taken aſhore by them?

Sergeant Ellis *his Opinion.*

I conceive they are not: The King's Duty is not liable. This Seizure upon this Clauſe doth not alter the Property, but remains as a Pledge till the Duty be paid; ſo as this Clauſe makes no Forfeiture, nor can any Sale be made if they be ſeiz'd upon by this Clauſe of the Act, therefore I do propoſe, whether it be not a better and ſafer way to ſeize thoſe Goods which are put into Lighters, as forfeited for not paying the Duty of Tonnage and Poundage, and to have them condemn'd in the Exchequer, and ſo to ſell them; which I conceive may be as ready a Way to bring in the Duty.

2 *Feb.* 1671. *William Ellis.*

This Caſe was propoſed, as appears by the Opinion, concerning Goods taken from aboard a Ship, and ſeiz'd in Lighters unenter'd for the Duty, and was made by the Cuſtom-Houſe Officers. The following Anſwer is more general.

Sir Robert Wiſeman's *Opinion.*

I anſwer, that the King not being Owner of the Goods, nor Contractor for any Freight, is not liable to anſwer it, or to make Payment thereof; but the Cuſtomers, after the King's Cuſtoms are ſatisfied, are to reſtore the Overplus to the Maſter, and thereby the Maſter is to pay the Freight to the Owners of the Ship, and not the Cuſtomers, who are to meddle with nothing but receiving of the King's Duty; but if the Cuſtomers ſhould retain the Overplus alſo, then they will make themſelves liable to pay the Freight; from

from that Caſe the Freight will follow the Goods whereſoever they be.

14 *Feb.* 1671. *Robert Wiſeman.*

CASE X.

Concerning Breaking Bulk in one Port, and then ſailing to another.

BY the Statute of 12 *Car.* 2. a Subſidy of Tonnage and Poundage was granted, *&c.* upon all Merchandize to be imported from foreign Parts into the Kingdom of *England*, &c. And the firſt Article annex'd to the ſaid Statute provides, that every Merchant ſhall have free Liberty to break Bulk in any Part of this Kingdom, and after to go to any other Part of this Kingdom, as by the ſame more fully does appear.

QUÆRE.

Whether a Perſon coming with his Ship's Lading into Port, and breaking Bulk, diſcharge ſome part of the Lading, and then tranſport the reſt into ſome Foreign Parts, the whole Lading be not ſubject to the ſaid Subſidy, notwithſtanding the Statutes 28 *Ed.* 3. and 20 *R.* 2. 4.

Robert Stephens, Eſq; *his Opinion.*

I think this Caſe is to be judicially determined: 'Tis true the Statute 28 *Edw.* 3. and the Confirmation 20 *R.* 2. give the Merchant Liberty to come into Port and ſell Part, and go off with the other Part, without paying of Cuſtom of that not ſold; but the Statute of 12 *Car.* 2. makes a new Law that gives the Subſidy of all Goods imported by way of Merchandize; ſo that if there had been no more, if Goods had been imported by way of Merchandize, the whole Subſidy for the entire Goods had been due upon the bringing into Port by way of Merchandize, or at leaſt upon breaking of Bulk; and the firſt Rule in the Book of Rates doth take ſo much of the Enacting Part, ſo that the Proviſo's of the Rule be obſerved; but thoſe Proviſo's, as I underſtand, do concern only where a Ship breaks Bulk in one part of this Kingdom, and

and ſells the reſt of her Lading at another, ſo that the King in one Port or other is anſwer'd his whole Duty.

And by the ſecond Clauſe, if a Merchant imports and pays or ſecures his Cuſtom upon his firſt Importation, as he ought, the Cuſtom being then due; in Caſe he exports again, he is to be repaid a Moiety of the Subſidy, under other Proviſo's in that Clauſe contain'd; ſo that if a Merchant by this means forbears the paying of the Duty, he would by this Device take an Advantage to himſelf; that is, in caſe he had paid the Duty and exported, he ſhould have been allowed but half his Subſidy, and then now by paying nothing he ſhall ſave all: But I think the Information muſt be for the Duty only, and not upon a Seizure or Forfeiture.

CASE XI.

Concerning Foreign Ships unlading Wines, &c. in the Downs.

12 Car. 2. BY an Act for the increaſing of Shipping and Navigation it is enacted, *&c.* That no Wines ſhall be imported into *England*, in any Ship whatſoever, but in ſuch as do truly and without Fraud belong to the People thereof; except ſuch Foreign Ships as are of the Built of that Country of which the ſaid Wines are the Growth, under the Penalty of Loſs of Ship and Goods, provided that for prevention of Frauds in concealing Aliens Goods, all Wines that ſhall be imported in any other Ship or Veſſel, than which doth truly and without Fraud belong to *England*, ſhall be deemed Aliens Goods, payable Strangers Cuſtoms.

By the ſaid Act it is further provided, That no Foreign built Ship ſhall be deemed to paſs as a Ship to *England* belonging or enjoy the Privilege of ſuch a Ship or Veſſel, until ſuch Time that he or they claiming the ſaid Ship to be theirs, ſhall make it appear to the chief Officers of the Cuſtoms, that he or they are not Aliens; and ſhall have taken an Oath before ſuch Officers, that ſuch Ship or Veſſel was, *bona fide*, without Fraud, bought for a Valuable Conſideration, and that no Foreigner hath any Share therein; that upon ſuch Oath he or they ſhall receive under the Hand and Seal of the ſaid Chief Officers, a Certificate, whereby ſuch

ſuch Ship or Veſſel may for the future paſs, and be deemed as a Ship belonging to the ſaid Port, and enjoy the Priviledge of ſuch a Ship or Veſſel.

By the Act of Frauds for the better Increaſe of Shipping and Navigation, it is enacted, that the Officers of the Cuſtoms in all the Ports of *England*, ſhall give an Account to the Collector and Surveyor, *&c. Vide the ſecond Caſe.* 14 Car. 2.

By the Act of Tonnage and Poundage it is enacted, If any Wines, Goods or other Merchandize, whereof the Subſides aforeſaid are or ſhall be due, ſhall at any Time after be ſhipp'd, or put into any Boat or Veſſel, to the Intent to be carryed into Parts beyond the Seas, or elſe to be brought from Parts beyond the Seas, into any Port, Place or Creek of this Realm, and unſhipped to be landed, and the Cuſtoms not paid, or lawfully tendered, they ſhall be forfeit. 12 Car. 2.

By the Act of Frauds it is enacted, That if any Goods or Merchandize ſhall be laden, or taken in from the Shoar, into any Bark, *&c.* to be carryed aboard any Ship or Veſſel outward bound, for the Parts beyond the Seas, or laden or taken in from or out of any Ship or Veſſel coming in and arriving from Foreign Parts without the Warrant, and the Preſence of one or more Officers of the Cuſtoms, ſuch Bark, Hoy, *&c.* ſhall be forfeited and loſt, and the Maſter, *&c.* knowing and conſenting, ſhall forfeit the Value of the Goods ſo ſhip'd. 12 Car. 2.

A Merchant having imported *French* Wines into the *Downs* in a Foreign built Ship, the Proprietors thereof having not perform'd the Requiſites enjoined by the ſaid Act of Navigation, in order to the making the ſaid Ship Free, and to enjoy the Privilege of a Ship belonging to *England*, and hath taken the ſaid Wines out of the ſaid Ship, and embarked the ſame into *Engliſh* built Barks or Hoys which have brought the ſame into the Port of *London*, or otherwiſe, intending to re-lade the ſaid Wines upon ſome other Ship riding in the *Downs* bound for ſome other Foreign Parts.

1. QUÆRE.

Whether theſe Wines being ſo imported into the *Downs*, doth not render Ship and Goods liable to Forfeiture.

Admitting the *Downs* are not within any Port, as I ſuppoſe they are not, then I conceive the bare carrying of the Ship and Goods thither, makes no Forfeiture; for the Words of the Law are, Edward Ward, *Eſq his Opinion.*

are, that no Wines ſhall be imported into *England*, *&c.* into any Ship whatſoever, but what belongs to the People of *England*, are of the Built of the Country, *&c.* Now admitting the Ship was not a Privileg'd Ship to import Wines, yet I conceive the Ship not coming into any Port, nor into *England* (which I do not take the *Downs* to be as to the Purpoſe) is not forfeited within the Words of the Law; and it being a Penal Law, I think will not be extended by Equity to create a Forfeiture, tho' the Fact ſeems to bear Evaſion of the true Intent of the Law.

2. QUÆRE.

Whether the unlading of the ſaid Goods in the *Downs*, upon either of the ſaid Caſes, be an Unſhipping within the Act of Tonnage and Poundage?

The ſame Man's Opinion. I conceive the *Downs* are neither Port, Place, or Creek of this Realm within the Act of Tonnage and Poundage; and the Unſhipping there without Paying or Compounding, is no Forfeiture for the Reaſons aforeſaid.

3. QUÆRE.

If not forfeited on either Clauſes, then whether the ſaid Wines are not liable to pay Aliens Duty, according to the other Clauſe aforeſaid.

The ſame Man's Opinion. The Clauſe in the Act of Navigation that impoſes Aliens Duties on Wines brought in Foreign Ships extends only to Wines imported into any Ports or Places of *England*; and it ſeems, that the meaning of the Act was, That Wines for which Aliens Duties are to be paid, are ſuch as are imported in Foreign Ships into ſome Town or Port, in regard it gives Aliens Duties alſo, in this Caſe to the Town or Port of Importation; and I conceive the *Downs* in that Caſe is not any Port or Place of *England*; and when the Wines are imported into the Port in an *Engliſh* Veſſel, the Demand of Aliens Duties is not Warranted by the Words of the Law; for tho' the greateſt Part of the Voyage is in a Foreign built Ship, yet the Aliens Duties are not due by the Words of the Act, but upon the Importation into the Port by a Foreign Veſſel, which might have been otherwiſe, had the Duty been impos'd as Wines brought from *France*, *&c.* in foreign built Ships: Then it would have been reaſonable, that the greater Part of the Voyage in

in a foreign Ship ſhould have made the Wines liable to Aliens Duties; but here the Duty ariſes and takes its Commencement upon the Importation into *England* in Foreign Ships, which is not in the Caſe; and therefore I much doubt, whether Aliens Duties be due or no, as this Caſe is, though 'tis an Evaſion of the Law.

4. QUÆRE

Whether the ſaid Hoy or Bark taking out the ſaid Goods without the Preſence of an Officer, the ſame be forfeited by the ſaid Clauſe in the Act of Frauds?

The ſame Man's Opinion.

I conceive, The Clauſe in the Act of Frauds refers to ſhip any Goods within a Port, which this Ship wasnot, and ſo the Words coming in and arriving from Foreign Parts ſeem to import; for when a Ship is in Port ſhe cannot unlade any Goods without a Warrant or Officer; but that I conceive doth not hold when the Ship is at Sea, and not in Port; for then no Officer hath any thing to do to go aboard her; and where a Warrant or Preſence of an Officer is not neceſſary, there is no Forfeiture of the Bark, *&c.* ſo that within the Caſe, I conceive the Bark is not forfeited within the Clauſe.

But upon the whole Matter, I conceive it very fit, as this Caſe is, to have a Judicial Determination of the Matter: For as on one Hand the Words of the Law are not tranſgreſs'd, ſo on the other the true Intent and Meaning of the Law is evaded: And I am of Opinion, if the Fact of the Caſe was done with a fraudulent Intent to evade the Laws, that Aliens Duties in the Caſe put, ought to be paid; but if the Wines were not originally intended to be brought into *England*, but to be carry'd to ſome other Place, and by Streſs of Weather, in any other Accident or juſtifiable Cauſe, were brought into *England*, that in ſuch Caſe neither Forfeitures nor Aliens Duties ought to be anſwered.

March 30. 1675. *Edward Ward.*

When Sir *Richard Temple*, Sir *Edward Deering*, Sir *George Downing*, Sir *William Lowther*, *Charles Cheyney*, Eſq; *Francis Millington*, Eſq; and *John Upton*, Eſq; were Commiſſioners of the Cuſtoms, ſeveral Projects were thought of to enlarge the Ports of this Kingdom, and give the Cuſtom-Houſe-Officers a Power to collect the King's Duties, even in ſome Places out at Sea. And a *Draught of his Majeſty's Commiſſioners for approving and confirming Ports and Keys, &c.* was drawn, wherein certain Perſons were impow-

er'd ' to (repair *to uſe the Words of the Draught*) unto our ſaid ' Port of *Sandwich*, to *Dover* and *Rocheſter*, *Feverſham* and *Deal*, ' Members of the ſaid Port, and to ſearch, find out, and ſurvey ' the *open* Places thereabouts, and to aſſign and appoint all ſuch, ' and ſo many Place or Places, to be Keys or Wharfs for the land- ' ing or diſcharging, lading or ſhipping any Goods, Wares or ' Merchandize, within our ſaid Port, or the ſaid ſeveral Mem- ' bers thereof, *&c.* and to ſet down, appoint, and ſettle the Ex- ' tent, Bounds and Limits of the ſaid Port, and the Members ' thereof, *&c.*

This Commiſſion was ſhewn to the moſt noted Lawyers then living, and there being ſomething in their Opinions that relates to the Maritime Sovereignty of the Kings and Queens of *England*, 'tis thought fit to let the Reader ſee what was the Judgment of ſuch eminent Council in ſo weighty a Caſe, which had ſome Reference alſo to an Act of Parliament.

Sir Rob. Sawyer's *Opinion.*

Becauſe ſome Doubt may ariſe whether ſuch Part of the Main Sea as is limitted to be within the Precincts of the Port, may be taken in by Virtue of the Act of Parliament, I have added a Clauſe of Declaration by the King's Prerogative, not Relative to the Act, which will not be ſo effectual, unleſs theſe were to paſs under the Great Seal; but in caſe that Way ſhould be thought too chargeable, it may be of Advantage to let the Clauſe be inſerted and the Exchequer-Seal; few Perſons being able to diſcern the different Operations of the two Seals.

Robert Sawyer.

Sir Will. Jones, *Attorney-General, his Opinion.*

I am of Opinion that it will be no Advantage to have this Clauſe of the Prerogative Royal, nor that it will make it better to have it under the Great Seal: For I think no Declaration under the Great Seal can make, that the Open Sea which is out of *England*, ſhall be Part of a Port; but I think if this Commiſſion under the Exchequer Seal, purſuant to the Act will not do it, it can not be done at all.

William Jones.

Edward Ward, *Eſq his Opinion.*

I conceive this may be a proper Form for ſuch a Commiſſion; but as to the Validity of it in extending the Port into any Part of the Main Sea, and ſubjecting thereby all Perſons to the Duties and Penalties of a Port, that ſhall come within that Part of the Sea

Sea which is made part of the Port, I take it to be a doubtful Caſe.

Edward Ward.

The following Account of the Uſage of the Sick and Wounded on board the *French* Men of War, was taken in the Year 1690, by an *Engliſh* Sea-Officer, who was then a Priſoner, and had Time and Opportunity to make an exact Obſervation as to the Care of the *French*, both in regard to the *Bedding* and *Diet* of the Sick and Wounded, he having been Priſoner aboard ſeveral Ships ſucceſſively; as the *Cheval Marine*, the *Neptune*, *Bruyſch*, *Vermandois*, *&c.*

As to their Bedding.

He obſerved, that as often as any Seaman or Mariner was taken ſick, his Meſs-mate gave immediate Notice of it to the ſecond Surgeon, as they term him; who, upon ſight, preſently removes him from his Hammock, and he has a clean Shirt put on; then he is brought to a Cradle (there being 18 always ready in the moſt convenient *Births* of the Ships) on which are a clean Pallet-Bed and Bolſter; as alſo a clean Pair of Sheets, Pillow-bear and good Quilt: Here he remains till throughly recovered, and then returns to his Hammock, which he finds clean waſh'd, with all his Bedding, there being Fellows appointed for that purpoſe. In the *Cheval Marine* the above-mentioned Officer particularly obſerv'd a ſick Fellow who had no clean Shirt: The Surgeon ſent immediately to the *Eſcrivan du Roy* for one that was an indifferent Dowlas one: The Officer inquir'd if theſe Shirts were appointed for that Uſe, and the Surgeon told him they were. As to the Number of the Beds, he found there were 54 in the *Bruyſch*, a Ship of 64 Guns, and every Ship had a proportionable Allowance.

Steward of the Ship

As to their Diet.

When the ſick Man is brought to his Bed, the Apothecary takes his Name, and gives it to the *Eſcrivan du Roy*: After which he receives no more Salt Proviſions, but is enter'd on the Surgeon's Liſt, who allows him ſuch Proviſions as are proper for one in his Condition. Every Noon there is a Pot boil'd with Fowls and Mutton, which is diſtributed to all the ſick in general in due Pro-

portion; the Meat only to thoſe who are paſt all Danger, and in a fair way of Recovery. The Broth ſav'd at Noon, is heated at Night, and divided equally among thoſe that remain Feveriſh; but if any of them be Coſtive, they have a ſmall Porringer of ſtew'd Prunes, with a little Sugar to ſweeten the Liquor. Thoſe who are on Recovery have each a Porringer of Butter'd Rice, and a Slice of Bread at Night. At Morning they have a Slice of hot Bread (which is bak'd every Day) with Butter, and every other Night till they are quite well, a Porrenger of ſtew'd Prunes to keep their Bodies open.

Such was the Gentleman's Obſervations aboard the *French* Ships in *America*, where every Ship had an Apothecary, except the *Cheval Marine*. As to their Management in the other Places, he could not communicate it to us.

A

COMPARISON

Between the LAND and SEA

SERVICE and PAY;

With a SCHEME of the

Engliſh and French Pay:

ABSTRACTED

From the Memoirs of an Officer of Great Experience in thoſe Matters.

'TIs the common Notion aſhore, That to be a Captain of a Man of War, is a Poſt almoſt as profitable, as to be Colonel of a Regiment of Foot; but thoſe that think ſo are as much in the wrong as he who, carrying the Compariſon too far, ſaid, *He had rather be a Corporal of Dragoons, than an Admiral at Sea*, and yet he had ſeen with what Honour and Power the Sea-Officers liv'd aboard; but then he had alſo ſeen their Way of Living, their Difficulties, Hardſhips and Dangers; and was not a Stranger to the Advantages *French* Sea-Officers have over the *Engliſh* in their Pay: The *French* have Pay as long as they live aſhore as well as at Sea; have a Table allow'd them, when the *Engliſh* have nothing but what they call Half-pay in Time of Peace; and, as the Caſe ſtood after the Concluſion of the laſt Peace, that Half-pay came very ſhort to the *Engliſh* Sea-Officers: Fifty of the Eldeſt Captains, one Hundred Lieutenants, and Thirty Maſters, who were not employ'd at Sea, had a certain Bounty of 18000 *l.* given

given them, as it is ſaid in the Votes of the Houſe of Commons, which, according to the Admiralty's Project, allow'd to 20 Captains 10 *s.* a Day, and to 30, 8 *s* a Day; to the Lieutenants 2 *s.* 6 *d.* and to the Maſters 2 *s.* which was no certain Allowance; for if they had any other Employments, they were cut off from it. And they were ſo often in and out of Commiſſion, that it rendered the Caſting up and Adjuſting the Books very difficult to the Clerks of the Navy-Office, who have been ſometimes ſix Months about it. During which Time no body cou'd receive any Money, which was very prejudicial to ſeveral Officers, who had nothing elſe to ſubſiſt on. The Land-Officers had all Half-pay during the Peace; and one Reaſon why they found more Favour than the Sea-Officers, may be, for that there are a great many more Men of Quality, and Gentlemen of conſiderable Families in the Land-Service, than in the Sea. The King being at the Head of his Army, ſeveral Gentlemen of good Fortunes went in Perſon, and others ſent their Sons to have the Honour of attending the King into the Field; whereas few choſe to ſerve their King and Country aboard a Ship, which is far from being ſo agreeable as in a good City or Camp: Beſides, when a Gentleman has a Commiſſion in a great Part of the Land-Service, it laſts for his Life, and he is provided for with a handſome Subſiſtence; whereas in the Sea-Service, (ſaid one, who knew very well what he ſaid) *One half of a Sea-Officer's Days is conſumed in ſtarving Circumſtances aſhore, and the other half at Sea, in perpetual Anxiety, Vexation and Uneaſineſs. In the Army, the Officers have the Pleaſure of treading on the firm Ground, and want not convenient Opportunity of frequently ſeeing their Friends and Relations, and enjoying good Company, while at Sea they poſſeſs nothing but a turbulent Solitude, and Converſe only with furious Winds, tumbling Waters, and a rowling Ship, which at every Turn either ſpills your Broth, or breaks your Bones; ſo that the Poor Fellow who digs for* 12 d. *a Day, is happier than any of 'em.*

The Top-Captains, Commanders of firſt Rate Ships, have but 365 *l.* a Year, and ſome of the lower Order but 109. This is ſo ſmall, that ſome of 'em have been tempted to part with their Commiſſions, and ſerve the Merchants. The Honour and Truſt is great; but what's Honour to an Hungry Belly, and what's the Truſt of a Line-of-Battel-Ship, if the Commander has not Credit enough at home to keep himſelf and Family in Repair. In the Reigns of King *Charles* and King *James* II. there were not ſo many Sea-Officers as have been ſince, and thoſe that were, had a Share of the Royal Favour and Bounty, by good Places and Employments

ployments aſhore: And 'tis not to be doubted, but his preſent Majeſty will take the ſame Care of his Sea-Officers, when he has them deſervedly recommended to him. The Sea-Captains have been reproach'd with doing things beneath their Characters; as running Goods, exacting Convoy-Money, *&c.* and how it is poſſible they ſhould be able to live themſelves, and maintain their Families according to their Quality on their Salaries.

The Pay of a *French* Land-Officer is much inferior to that of an *Engliſh*; and the Pay of an *Engliſh* Sea-Officer, much inferior to that of a *French*, tho' *England* is an Iſland, and claims the Dominion of great Part of the Ocean. Is it not a ſort of a Paradox then, that the Sea-Service ſhould be leſs encourag'd than the Land in *England*, and the Land-Service leſs encourag'd in *France*, where the King can only make himſelf Great by his Armies, than the Sea? Is not this very unaccountable? No certainly, to thoſe who conſider that there never was any Power Great at Sea, but it was alſo formidable at Land. And the *French* King knows full well, that all his Conqueſts at Land are precarious and perhaps his antient Dominions, if he ſuffers any Power to be too hard for him at Sea: This made him ſo very induſtrious to encreaſe his Shipping, and he ſpar'd for no Expence to encourage ſuch as wou'd ſerve in his Fleet, as well Mariners as Officers, Foreigners as *Frenchmen*. That our Glory and even our Safety depend on our Strength at Sea, is ſo plain, that none ever doubted or debated it; and why ſhould not we take as much Care to preſerve our Ships, and to encourage our Seamen, Officers and others, is a Queſtion much eaſier to ask, than to anſwer ſatisfactorily: So we ſhall not pretend to it. Let the Land-Officers be as much encourag'd as may be; but let not the Sea-Service ſuffer. Nor let it ever be ſaid, there is any Nation in the World, much leſs the *French*, who ſhall do more to encreaſe their Strength and Dominion at Sea, than the *Engliſh*, who, as has been prov'd in this Treatiſe, are Lords of the greateſt Part of the Weſtern Ocean.

The Pay of the *Engliſh* Officers was once better than it is now. The late King *James* I. began the Eſtabliſhment, and laſt War it was ſettled: What Reaſon there was for altering it, is not preſently to be found out. Only 'tis certain, Thoſe who promoted it were ſuch as had been of the Sea. Whatever Differences happen among the Land-Officers, they always unite to promote their Common Intereſt; and ſhould not the Sea-Officers do the ſame?

A Scheme of the Pay and Encouragement of the Engliſh and French Officers.

The French PAY.

Rates of Ships.	Quality of Officers.	Pay aſhore and at Sea the ſame during Life. Per Menſ.			Per Ann.	Table-Money at Sea. Per Menſ.			Per Ann.	Total of both at Sea.
		l.	*s.*	*d.*	*l.*	*l.*	*s.*	*d.*	*l.*	*l.*
1ſt Rate	1 Capt.	25	00	00	300	30	00	00	360	660
	2 Capt.	25	00	00	300					
	1 Lieut.	08	06	08	100					
	2 Lieut.	08	06	08	100					
	1 Enſign	04	03	04	50					
	2 Enſign	04	03	04	50					
2d Rate	1 Capt.	25	00	00	300	30			360	660
	2 Capt.	16	13	04	200					
	1 Lieut.	08	06	08	100					
	2 Lieut.	08	06	08	100					
	1 Enſign	04	03	04	50					
	2 Enſign	04	03	04	50					
3d Rate	Capt.	25	00	00	300	25			300	600
	Lieut.	08	06	08	100					
	1 Enſign	04	03	04	50					
	2 Enſign	04	03	04	50					
4th Rate	Capt.	25	00	00	300	21	13	04	260	560
	Lieut.	08	06	08	100					
	Enſign	04	03	04	50					

Rates

Rates of Ships	Quality of Officers.	Pay aſhore and at Sea the ſame during Life.				Table-Money at Sea.				Total of both at Sea.
		Per Menſem.			Per Ann.	Per Menſem			Per Ann.	
		l.	*s.*	*d.*	*l.*	*l.*	*s.*	*d.*	*l.*	*l.*
5th Rate	Capt.	25	00	00	300	21	13	4	260	560
	Lieut.	08	06	08	100					
	Enſign	04	03	04	50					
6th Rate	Capt.	16	13	04	200	08	06	08	100	300
	Lieut.	06	05	00	75					
Bomb-Veſ.	Capt.	16	13	04	200	12	10	00	150	350
	Lieut.	08	06	08	100					
	Enſign	04	03	04	50					
Fire Ships	Capt.	12	10	00	150	05	00	00	60	210

December 1702. The *French* King has given to 7 Captains, 125 *l. per Ann.* Penſion, over and above their ſettled Pay, and to 7 more 83 *l.* 6 *s.* 4 *d.* and has rais'd 9 Captains more to the higheſt Pay. Beſides which, there is an Order of Knighthood peculiar to the Sea, with ſufficient Penſions annex'd for the better Support of the Honour.

The Engliſh PAY.

Rates of Ships.	Quality of Officers.	Pay aſhore during Life.	Pay at Sea. Per Diem.	Pay at Sea. Per Ann.	Table-Money.	French Officers more than the Engliſh
			l. *s.*	*l.* *s.* *d.*		*l.* *s.* *d.*
1 Rate	Capt.	———	01 00	365 00 00	———	295 00 00
	1 Lieut.	———	00 05	091 05 00	———	8 15 00
	2 Lieut.	———	00 05	091 05 00	———	8 15 00
	3 Lieut.	———	00 05	091 05 00	———	
	4 Lieut.	———	00 05	091 05 00	———	
	5 Lieut.	———	00 05	091 05 00	———	
2 Rate	Capt.	———	00 16	292 00 00	———	368 00 00
	1 Lieut.	———	00 05	091 05 00	———	8 15 00
	2 Lieut.	———	00 05	091 05 00	———	8 15 00
	3 Lieut.	———	00 05	091 05 00	———	
	4 Lieut.	———	00 05	091 05 00	———	
	5 Lieut.	———	00 05	091 05 00	———	
			s. *d.*			
3 Rate	Capt.	———	13 06	246 07 06	———	353 12 06
	1 Lieut.	———	04 00	073 00 00	———	027 00 00
	2 Lieut.	———	04 00	073 00 00	———	
	3 Lieut.	———	04 00	073 00 00	———	
4 Rate	Capt.	———	10 00	182 10 00	———	377 10 00
	1 Lieut.	———	04 00	073 00 00	———	027 00 01
	2 Lieut.					

5 Rate

Rates of Ships.	Quality of Officers.	Pay ashore during Life.	Pay at Sea. Per Diem.	Pay at Sea. Per Annum.	Table-Money.	French Officers more than the English.
			s. d.	l. s. d.		l. s. d.
5 Rate	Capt.	———	08 00	146 00 00	———	414 00 00
	Lieut.	———	04 00	073 00 00	———	027 00 00
6 Rate	Capt.	———	06 00	109 10 00	———	90 00 00
	Lieut.	———	04 00	073 00 00	———	02 00 00
Bomb-Vessels	Capt.	———	06 00	109 00 00	———	240 10 00
Fire. Ship.	Capt.	———	08 00	146 00 00	———	64 00 00
	Lieut.	———	04 00	073 00 00	———	

In the *English* Sea Service there are no Officers call'd Ensigns.

The *French* Sea Officers receive their Pay every Month. The *English* nothing till the Voyage is over, and the Captains sometimes not in some Years after.

All the *French* Commission Officers eat at Sea at the Captain's Table.

In the *French* Navy the Ships are rated according to their Complements of Men, and not to the Number of Guns: Therefore all are accounted First Rates that carry from 800 to 600 Men; all Second Rates from 500 to 400 Men; all Third Rates from 350 to 300 Men; all Fourth Rates from 250 to 200 Men; all Fifth Rates from 150 to 120 Men. What the *English* call Sixth Rates, are by the *French* call'd *Fregates Legeres*, Light Fregates.

The Pay of the *French* General Officers at Sea is not upon the Establishment, and only the Table Money from Vice-Admirals to *Chefs de Escadre*. *Note*, that in *England*, the Admirals of the Red, White and Blue, are in the same Post with those call'd Vice-Admirals by the *French*, and what the *English* stile at Sea Vice-

Admirals, are call'd by the *French* Lieutenant-Generals. The *French* have no Rear-Admirals, but their *Chefs d' Eſcadre* ſerve in the Fleet in the ſame Nature with the *Engliſh* Rear-Admirals.

A Vice-Admiral in the *French* Service is allow'd 1500 *l. per Annum* Table-Money: The *Engliſh* Admiral of White and Blue but 365 *l. per Annum:* The *French* Lieutenant Generals 800 *l. per Annum:* The *Engliſh* Vice-Admirals nothing: The *French Chefs d' Eſcadre* 460 *l. per Annum*; the *Engliſh* Rear-Admirals nothing.

Articles and Regulations concerning the Land-Officers and Soldiers aboard the Men of War.

1. THat all her Majeſty's Ships are to be eſteem'd as Forts and Garriſons; and that the Captains of the Ships are Governours of thoſe Fortifications.

2. That all Officers and Soldiers, being aboard of any of her Majeſty's Ships, are to receive Orders from the Commanders of the Ships, and that all the Officers have the Command of their reſpective Companies, and are to obſerve the ſame Rules in the Diſcipline as is uſual in all Garriſons.

3. That all Orders concerning the Soldiers, whether Puniſhment or otherwiſe, ſhall be given, by the Commanders of the Ships, to their reſpective Officers, that they may be regularly executed.

4. That the Poſting and Relieving of Centries be according to the Directions and Orders of the Captains of the Ships.

5. That the Poſting the Soldiers in Time of Service be according to the Directions of the Captains of the Ships.

6. That the Officers of the reſpective Companies have the Power of puniſhing their own Soldiers for any Faults they commit, acquainting the Captains of the Ships therewith; and likewiſe when the Commanders of the Ships have any Occaſion to puniſh any

any Soldiers, they ſhall give the Orders to their reſpective Officers for ſo doing.

6. That no Seamen ſhall preſume to abuſe, affront or inſult any Soldier, but that he ſhall be puniſh'd ſeverely; as alſo if any Soldier be guilty of the ſame Fault, he muſt likewiſe be puniſh'd for it.

Theſe Regulations were drawn up to be ſettled between the Sea and Land Officers, in a Squadron ſent to the *Weſt Indies*, under the Command of Captain *Hovenden Walker*, in the Beginning of this War; and 'tis ſuppos'd are much the ſame with all Orders on the like Occaſions.

In the Year 1704. The Captain of her Majeſty's Fleet petition'd the Queen in behalf of themſelves and others, who had been out of Pay all the preceding Summer. They ſet forth in their Petition;

'THat her Majeſty's Great Ships of the Line of Battle being 'laid up, the Men diſcharg'd or turn'd over, the Senior 'Captains commanding them, are paid off and left aſhore, with-'out any Proviſion for themſelves and Families; by which means 'they are often reduc'd to great Streights and Neceſſities, while 'the Junior Captains who command ſmall Frigots are in con-'tinual Employment, finding a Maintenance when the Seniors 'want it. Even the Warrant Officers of thoſe Ships commanded 'by her Majeſty's Senior Captains, they and their Servants, are 'conſtantly born in Ordinary upon the Ships for Victuals and 'Wages, although their Commanders are diſcharg'd. And in the 'Merchant Service, the Commanders of Ships are not diſchar-'ged, but kept in half Pay while their Ships lie up. This has 'alſo in a very particular manner happen'd to ſome of her Maje-'ſty's Captains who went to the *Weſt Indies*, (a Voyage declin'd 'by many on account of the Fatal Sickneſs attending it) and ſuch 'of them as eſcap'd Death, returning from thence, were paid off, 'while thoſe who ſerv'd at home were always in Command; and 'this Calamity of being unprovided for, happens to her Majeſty's 'Senior Captains only in Time of War, whereas in Time of Peace 'Allowance was given for their Subſiſtence aſhore. Thus, thoſe 'who have ſerv'd longeſt, and with moſt Hazzard, are left to

'be

'be in the meaneſt Circumſtances of any in her Majeſty's Ser-
'vice, *&c.*

Preſent,

At the Court of St. James,
November 30, 1704.

The Queen's moſt Excellent Majeſty.

Upon reading this Day at the Board, the Humble Petition of the Captains of her Majeſty's Fleet, who have been out of Pay all laſt Summer, in behalf of themſelves and all others, who are, or may be hereafter, under the ſame Circumſtances; ſetting forth, That her Majeſty's great Ships of the Line of Battle are laid up in the Winter, the Men diſcharg'd or turn'd over, *&c. (as above-mention'd in the Petition)* It is thereupon order'd by her Majeſty in Council, that it be, as it is hereby, referr'd to his Royal Highneſs the Lord High Admiral, who is deſir'd to conſider the Matter of the ſaid Petition; a Copy whereof is hereunto annex'd, and to report to this Board what his Royal Highneſs conceives fit for her Majeſty to do thereupon.

William Blaithwayt.

Preſent,

At the Court of St James,
December 14. 1704.

The Queen's moſt Excellent Majeſty in Council.

Upon reading this Day a Report from his Royal Highneſs, Lord High Admiral, in the Words following, *viz.*

'HEr Majeſty having been pleaſed to refer unto me the Peti-
'tion of ſeveral Captains of the Fleet, who have been out
'of Pay a conſiderable Time, by which they repreſent, that her
'Majeſty's Ships of the Line of Battle are frequently laid up in
'the Winter, the Men diſcharged or removed into others, and the
'Senior Captains who commanded them, put out of Pay, without
'any Proviſion for themſelves and their Families on Shore; in-
'ſomuch, that they are often reduced to very great Streights
'and Neceſſities, while the Junior Captains, who command in
'ſmaller Ships, are in continual Employment; and even the War-
'rant Officers of the Ships commanded by the ſaid Senior Cap-
'tains, as well as their Servants, continued in Wages and Victu-
'als, when the Ships are laid up in Harbour.

'And

'And ſince this Hardſhip attends them only in Time of War, 'there being a Proviſion of Half-pay already eſtabliſh'd on them, 'when out of Employment in Peace; they do therefore humbly 'pray, That her Majeſty will be graciouſly pleaſed to give Order 'for their being ſubſiſted, when out of Employment on Shore in 'Time of War, by Half-Pay, or otherwiſe, as her Majeſty in her 'Wiſdom and Goodneſs ſhall think fit.

'I have, in Obedience to her Majeſty's Commands, conſider'd 'of what is alledg'd; and of the Circumſtances of the Petitioners, 'and do humbly report unto her Majeſty;

1. 'That at this Time there is, and for a conſiderable Time 'paſt hath been, ſeveral of the Elder Captains belonging to the 'Navy, or at leaſt ſuch as have commanded Ships of the bigger 'Rates out of Employment, occaſioned either by the laying up 'of their Ships when unfit for Service, or the not fitting out ſuch 'a Number of thoſe Rates as might make a Proviſion for them.

2. 'That during the Time of their being thus out of Employ-'ment, they have no Allowance of Pay.

3. 'It may hereafter happen, and that frequently too, that (for 'the Reaſons aforeſaid) ſeveral of the Captains under theſe Cir-'cumſtances of the Service in the Fleet, may remain a conſiderable 'Time aſhore for want of Opportunities to employ them in her 'Majeſty's Service; for they cannot regularly, or according to 'the Practice of the Navy, be put into cruiſing Frigots; and its 'probable, that before they can be provided for, they may expend 'what their Pay amounted to in the Ships they laſt commanded. 'Whereas (as they do truly alledge) thoſe who command Ships 'of the Fourth Rate, and under, are not ſo frequently ſubjected 'to ſuch Inconveniencies, becauſe they are generally employed or 'continued much longer in Pay, beſides other Advantages, as 'Cruiſers, by their taking of Prizes.

'This being their preſent Caſe, and ſince, as is already obſer-'ved, others may in all likelihood be under the ſame Circum-'ſtances, if ſome Proviſion be not made for their Support, I 'think it convenient to inform her Majeſty what was done in the 'Reign of King *Charles* II. both in Time of War and Peace, for 'the Encouragement and Support of the Captains of the bigger 'Ships, when out of Employment.

1. His

1. His ſaid Majeſty, by his Order in Council in *September*, 1667, was pleaſed to direct, That the Captains of Firſt and Second Rate Ships, ſhould be kept in whole Pay to the very Day the Peace was proclaimed.

2. And his ſaid Majeſty did alſo in *May*, 1674, order, that an Allowance of Half-pay ſhould be made to Captains of Firſt and Second Rates, until they were provided for, according to the Liſt of Quality they had ſerv'd in, or that if any other Proviſion which ſhould be made for them, fell ſhort of their Half-pay, it ſhould be made up by the Treaſurer of the Navy: The which Captains were reſtrain'd, as now, from going into the Merchants Service.

From whence it appears, that it was then thought reaſonable to provide for the Support of Officers who had then ſo ſerv'd, and had their Dependence on the Navy, not only during their being unimploy'd in the War, but in the ſame manner as now they are in Time of Peace alſo.

And if her Majeſty ſhall, in Conſideration of thoſe Gentlemen who have ſerv'd in Ships of the Firſt, Second, or Third Rates, and now have humbly laid their hard Circumſtances before her Majeſty, and prayed Relief, be graciouſly pleas'd to cauſe ſuch an Allowance to be made for them during their being unimploy'd in Time of War, I have ſet down in the following Scheme, what the Sum may probably amount to yearly for defraying ſo neceſſary a Charge.

	Number	*l.*
Captains of the firſt Rate	4 at 10 *s.* a Day	730
ſecond	4 at 10 *s.* a Day	730
third	15 at 80 *s.* a Day	2190
		3650

But foraſmuch as this is calculated for a certain Number of Captains the Year round, it may happen that ſo many will not at any one Time be out of Service in Time of War; or, that if ſo, they will not all of them be unimploy'd the whole Year. In either of which Caſes, the Charge will be proportionably leſſened, and her Majeſty's Additional Grace and Favour, in cauſing an Allowance to be made to the Petitioners, under the Circumſtances of Service afore-mentioned, for the Time they have already been un-

unimploy'd, will be ſuch an Encouragement to a Number of conſiderable Officers in her Majeſty's Navy, as will more than compenſate the Charge.

Admiralty-Office, Decemb. 8. 1704. *GEORGE.*

Her Majeſty in Council approving what is propoſed by the ſaid Report, is pleaſed to order, that his Royal Highneſs be pleaſed to give the neceſſary Directions therein accordingly.

John Povey.

AN

ESSAY

CONCERNING

Naval Affairs;

TAKEN

From the MEMOIRS of a Sea-Officer who has been long in the Service, and from Mr. *Pepy*'s and Mr. *Burchett*'s Treatiſes.

THat the Wealth, Safety and Glory of *England*, conſiſts in its Naval Power, is an uncontroverted Maxim: The more it is improv'd therefore, the more Great, the more Safe and Rich will *England* be; and on the contrary, the more the Navigation and Naval Power of *England* is diminiſh'd, or diſcourag'd, the Nation will be the more Mean, the more Poor and Inſecure. 'Tis therefore of the higheſt Conſequence to the Welfare of this State, to conſider whether its Strength at Sea may not be improv'd. That we have more and greater Ships than we had 100 Years ago and upwards, no body can deny; but then it muſt be own'd, that our Neighbours have more and greater as well as we; and ours are not ſo well Mann'd as they were formerly. In Queen *Elizabeth*'s Days, as may be ſeen by ſome Accounts yet extant, there were allow'd double the Number of Mariners and Gunners: And beſides, every Ship had always a Complement of Soldiers, which of late Years have been wholly retrench'd, except the Attempts that were made in the laſt War to reſtore the Soldiers, by conſtituting Regiments of *Marines*; but then the Number of Mariners was leſſen'd,

leſſen'd, which was rather a Diminution, than an Addition to the Ships Strength. What were formerly call'd Gunners aboard Ships of War, are now term'd Quarter-Gunners; and the Number now allow'd, is leſs in Proportion to the Guns, than was in Queen *Elizabeth*'s Time. So that 'tis plain, our Ships are not ſo full of Men as they were above 100 Years ago; and if Ships are not well Mann'd, they can never anſwer the Ends for which they are put to Sea. And as they are uſeleſs without Men, ſo are Men without proper and ſufficient Officers to direct, diſcipline and command them. The Seamen ſhould be Hardy, Bold and Experienc'd; and the Soldiers aboard Train'd and Diſciplin'd, and not idle Vagrants and Vagabonds. The Officers alſo ſhould be ſome way or other ſo far intereſted in the Nation, as may engage them to be juſt and faithful to the Queen and Country. If they have no Fortunes of their own, and but little Hopes of getting any honourably in the Service, what Temptations are they expos'd to? And it is worthy the Conſideration of the Legiſlative Power, to examine into the Diſpoſition of theſe Things: For a Man of War is a Truſt ſo great, both as to its Coſts and Conſequence, that he with whom it is entruſted ſhould be, as much as is poſſible, defended from Bribes: To which the Poor are always moſt liable; eſpecially where Perſons have no View of being in conſtant Employ, but a ſad one of ſtarving when they are out of it. 'Tis very well known, that before the Action at *La Hogue* it was rumour'd, that Rear-Admiral *Carter* had 10000 *l.* given him to bring his Diviſion over to the *French*, and that ſeveral of the Captains of the Fleet were ſuſpected of being bought off to the Intereſt of the late King *James*. What Ground there was for this Rumour is uncertain. True it is, Rear-Admiral *Carter* was not Rich; yet 'tis plain he had never ſuch a Bribe, becauſe he dy'd Poor, tho' it was in the Bed of Honour, at the ſame Time that he was ſaid to have been ſuſpected. The late Queen *Mary*, of Glorious Memory, order'd the Lord *Nottingham*, the Secretary of State, on theſe Reports, to write a Letter to be communicated to the Officers of the Fleet; in which her Majeſty let them know, that tho' ſome ill deſigning People were endeavouring to create Diſtruſts in her of her Officers; yet ſhe aſſur'd them of her Confidence in their Fidelity; and upon that Letter, all the Captains ſign'd an Addreſs to the Queen, to confirm her Majeſty in her good Opinion of their Faithfulneſs to her Service. But let us reflect a little on what a Condition *England* had been, had that Rumour been true, and had Rear-Admiral *Carter* only been corrupted. The Occaſion of that Report was his Poverty; and it is hop'd

that no *Engliſh* Officers will ever have any Reaſon from the ill Rewards or ſmall Encouragement he meets with in the *Engliſh* Service to deſert it; I will not ſay betray it: For it ſhall never enter into my Thoughts, that an *Engliſhman* truſted by his Queen and Country with ſo important a Truſt as that of the Command of a Man of War, will ever prefer his Private Intereſt to the Diſcharge of his Duty; and 'tis not to be doubted, but that he will ever advance his Private Intereſt when he promotes that of the Publick.

However, Humane Nature is not infallible, and every wiſe Government will take Care to defend its Servants againſt the Frailties of it as much as it can, by duly encouraging and rewarding them, and employing Perſons of the moſt Honour. Before King *Henry* VIII's Time, Kings were wont to command their Fleets in Perſon; and Men of the beſt Quality did not think it below them to ſerve aboard them. Honours and Dignities were conferr'd on Men for their Military Services, and not for the Management of private Intrigues to ſupport particular Factions.

When *Henry* V. was diſſwaded by the Emperor *Sigiſmund* (who was then in the Court of *England*) from commanding his Fleet in Perſon againſt the *French*, who beſieged *Harfleur* by Sea and Land, he ſent no leſs a Man than his Brother the Duke of *Bedford*, and with him went the Earl of *Merch*, of the Royal Line; the Earls of *Oxford*, *Huntington*, *Warwick*, *Arundel*, *Salisbury* and *Devonſhire*, of whom two were Knights of the Garter; beſides ſeveral other Noblemen and Perſons of Quality: Whereas in our preſent Fleets, a Nobleman, or Man of Fortune, is as great a Wonder as the Appearance of a Comet; tho' the Great and Powerful were heretofore as frequently ſeen there as in the King's Bed-Chamber. 'Tis remarkable, that when *Edward* III. who in Perſon commanded his Fleet, defeated the *French* in a Naval Combat, the Enemy attributed their Overthrow to one *Butchet*, a Chief Commander among them, who had arm'd his Ships with Men of baſe Condition, contented with ſmall Pay; and refus'd Gentlemen and ſufficient Soldiers, becauſe they requir'd greater Wages; by which they plainly intimated, that King *Edward*'s Ships were the contrary. 'Tis true, the Manner of fitting out Fleets was then otherwiſe than now it is: For of 700 Ships, of which his Fleet was compos'd, the Proportion found by the King was only 25, and *London* furniſh'd the ſame Number. Every Port and Town furniſh'd its Quota of Men and Ships, which was a ſure way of being ſupplied with both: For then, the Ships belonging to the Towns,

Towns, they had an Intereſt in Manning them, becauſe the Loſs of the Ships was their particular Concern; whereas the Sea-Port Towns having Uſe for Seamen to carry on their Trade, cannot ſpare them to the National Fleet; inſtead of which they draw all the Seamen from the Publick Service, by giving them double and treble Wages. They are not, they think, now ſo much concern'd for the Safety of the Fleet, as when the Ships were their own: The common Cauſe not being of ſo much Weight with them, nor the Defence of their Religion, Liberties, and even Eſtates, as their preſent Gain.

By the following Liſt it will appear, how the Sea-Ports were charg'd in King *Edward* III's Days, both for Ships and Men in their Proportions. Mr. *Hackluyt*, who inſerts it in his Voyages, ſays it was extant in the King's Great Wardrobe.

The Roll of King Edward III's *Fleet before* Calais.

The South FLEET.

THE King's Ships	25	*Feverſham* Ships	22
Mariners	419	Mariners	504
London Ships	25	*Dover* Ships	16
Mariners	662	Mariners	336
Milford Ships	2	*Wight* Ships	18
Mariners	24	Mariners	220
Hoo Ships	2	*Winchelſea* Ships	21
Mariners	24	Mariners	596
Maidſtone Ships	2	*Weymouth* Ships	15
Mariners	51	Mariners	263
Hope Ships	2	*Lyme* Ships	4
Mariners	39	Mariners	62
New Hyeth Ships	5	*Seaton* Ships	2
Mariners	49	Mariners	25
Margate Ships	15	*Sydmouth* Ships	3
Mariners	160	Mariners	62
———— Ships	2	*Exmouth* Ships	10
Mariners	22	Mariners	192

Tynouth

Teymouth Ships	7
Mariners	120
Dartmouth Ships	31
Mariners	757
Portſmouth Ships	5
Mariners	96
Plymouth Ships	26
Mariners	603
Loo Ships	20
Mariners	315
Yalm Ships	2
Mariners	47
Foy Ships	47
Mariners	770
Briſtol Ships	22
Mariners	608
Tinmouth Ships	2
Mariners	25
Haſtings Ships	5
Mariners	96
Romney Ships	4
Mariners	65
Rye Ships	9
Mariners	156
Hieth Ships	6
Mariners	122
Shoreham Ships	20
Mariners	329
Seaford Ships	5
Mariners	80
Newmouth Ships	2
Mariners	18
Hammowle-Hook Ships	7
Mariners	117
Hoke Ships	11
Mariners	208
Southampton Ships	21
Mariners	576
Limington Ships	9
Mariners	159
Pool Ships	4
Mariners	94
Wareham Ships	3
Mariners	59
Swanzey Ships	1
Mariners	29
Ilfra Combe Ships	6
Mariners	96
Padſtow Ships	2
Mariners	27
Polerman Ships	1
Mariners	60
Wadworth Ships	1
Mariners	14
Caerdiffe Ships	1
Mariners	51
Bridgwater Ships	1
Mariners	15
Caermarthen Ships	1
Mariners	16
Cailcheſworth Ships	1
Mariners	12
Mulbrook Ships	1
Mariners	12
Total of the South Fleet Ships	493
Mariners	9630

The North FLEET.

Bamburg Ships	1
Mariners	9
Newcaſtle Ships	17
Mariners	314
Walwich Ships	1
Mariners	12
Hartlepool Ships	5
Mariners	145

Hull

Hull Ships	16	*Dunwich* Ships	6
Mariners	466	Mariners	102
York Ships	1	*Orford* Ships	3
Mariners	9	Mariners	62
Ravenſpurgh Ships	1	*Geford* Ships	13
Mariners	27	Mariners	303
Woodhouſe Ships	1	*Harwich* Ships	14
Mariners	22	Mariners	283
Stolkhithe Ships	1	*Ipſwich* Ships	12
Mariners	10	Mariners	239
Barton Ships	3	*Merſey* Ships	1
Mariners	30	Mariners	5
Sunfleet Ships	1	*Brichelſea* Ships	6
Mariners	11	Mariners	61
Saltfleet Ships	2	*Colcheſter* Ships	5
Mariners	49	Mariners	90
Grimsby Ships	11	*Whitbanas* Ships	1
Mariners	171	Mariners	17
Wainfleet Ships	2	*Malden* Ships	2
Mariners	49	Mariners	32
Wrangle Ships	1	*Derwen* Ships	1
Mariners	8	Mariners	15
Lynn Ships	16	*Boſton* Ships	17
Mariners	382	Mariners	361
Blackney Ships	2	*Suinhumber* Ships	1
Mariners	38	Mariners	32
Scarborough Ships	1	*Barton* Ships	5
Mariners	10	Mariners	91
Yarmouth Ships	43		
Mariners	1075		

Total of the North Fleet Ships	217
Mariners	4521
Total of all the *Engliſh* Fleet Ships	700
Mariners	14151

Some of the Names of theſe Ports are now almoſt loſt to us, and the Condition of them then and now a lively Inſtance of the various Changes the moſt ſolid of earthly Things are ſubject to. *Yarmouth* was then the greateſt navigating Town in *England*: *Foy* in *Cornwal* furniſh'd more Mariners than *London*; and *Winchelſea* in *Suſſex* almoſt as many. 'Tis eaſy to perceive, that the Number of Mariners was ſufficient only for Navigating the Ships

Ships; becauſe in thoſe Days, and always till of late Years, Soldiers were put aboard when the Fleets went to fight. The Navy was then ſent out in the ſame Manner as a Militia; and no Town that had any Pretence to Trade was excus'd of ſending its Quota: And when we at this Time are in want of Seamen, it may not be improper for thoſe who are at the Head of thoſe Affairs, to enquire into the old Methods of Manning the Fleet with Seamen and Soldiers.

In former Times the Vice-Admiralties in their Diſtricts (which now are only Nominal, and of no Uſe but to ſeize Wrecks) were erected for the Service of the Fleet, and the regular ſending Mariners to the King's Ships. Tho' after the Kings of *England* had built Men of War, the ſeveral Sea-Port Towns were excus'd furniſhing Ships for the Service; yet were they not diſcharged from the Obligation of ſending their Proportion of Men, by which they held their Charters and Privileges; and that was ſtil'd, *Impreſſing* Seamen for the King's Service.

King *Henry* VIII. was the firſt that began to build a Royal Navy, appointed Commiſſioners, and conſtituted a Navy-Office: At which Time the Command of one of the King's Ships was reckon'd a Poſt fit for a Nobleman; tho' thoſe Ships were ſmall in Compariſon of what the Men of War are now. In the Beginning of that King's Reign, when he equipt a Fleet, and went himſelf to view it at *Portſmouth*, the Regent was commanded by Sir *Thomas Knevel*, Maſter of the Horſe to the King, and Sir *John Carew*, of a great Family in *Suffolk*: The Sovereign by Sir *Charles Brandon*, afterwards Duke of *Suffolk*, and Sir *Henry Guilford*, Knight of the Garter: The Admiral was Sir *Edward Howard*, of the Noble Houſe of *Norfolk*. By which we ſee it was not un-cuſtomary to have two Captains to a Ship; and theſe four Captains were all Men of Quality, and Favourites too. There are Liſts of Queen *Elizabeth*'s Ships, and their Commanders; in two of which there was but one private Gentleman a Captain, all the reſt being Lords and Knights; and Knighthood was not then ſo cheap as it was made by her Succeſſor: Nor is it to be doubted, but that while Men of Fortunes commanded the King's Ships, their Eſtates being a ſufficient Income for them in Peaceable Times, it was ſo far uſeful to the Nation, that it was not then charg'd with the Maintenance of Officers after the War. Such Gentlemen who did not want it, were always willing to have it ſhorten'd; whereas, and 'tis a melancholy Reflection, our Sea-Officers are for the moſt part ſo poor, that they wiſh for a War only, that it may give them Bread; and look upon Peace

as

as the greateſt of Curſes. Should not the *Engliſh* Nobility be as ready to fight for the Preſervation of their Eſtates and Honours, as their Fathers were to acquire them? And is it not ſtrange, that there ſhould be leſs Care taken about the Diſpoſal of the Command of Men of War, than there is about that of Merchant Men? It being certain, the Merchants ſeldom employ any Maſters but ſuch as have a Part of the Ships. And there are ſome *Engliſh* Maſters who own Half, nay three Quarters of the Ships they command, and but very few who do not own at leaſt a Sixteenth: From whence theſe two general Obſervations have been made, that there are ten times more *Dutch* Ships loſt than *Engliſh*; for the *Dutch* Maſters rarely hold any Part of their Ships; and therefore when *Engliſh* and *Dutch* Ships happen in any Foreign Port, Foreigners, if not otherwiſe oblig'd, will rather load their Merchandize on board an *Engliſh* than *Dutch* Ships; becauſe they think their Goods are more ſafe aboard the former than aboard the latter; for that the *Engliſh* Maſter has a Part in the Ship, and ſhares in the Profit ariſing by the Freight; which makes it his Intereſt to preſerve her. And when Men of Quality and Fortune are Commanders of Ships, as they were in and before Queen *Elizabeth*'s Reign, their Eſtates are a ſort of Pledges for the Fidelity of the Captains in the Service. But ſuch has been the Opinion of ſerving at Sea in latter Times, that one would think none but baſe Fellows fit for it; and on this account it has been declin'd by the Nobility and Gentry. It was the Cry in King *William*'s Reign, *The Tars, The Tars*; and they were employ'd till the Government had ſufficiently paid for the Experiment. Have any Men behav'd themſelves more bravely than the Noblemen and Gentlemen aboard? The Right Honourable the Marquis of *Carmarthen*, the Right Honourable the Lord *Durſley*, the Lord *Archibald Hamilton*, Captain *Mordaunt*, Captain *Stanhope*, and many more that could be nam'd.

Tho' a Poor Man, or a Man baſely bred, may be as honeſt as the beſt bred Man in the World; yet it is certain, that Notions of Honour and Greatneſs of Soul, ingrafted by a generous Education, are more likely to produce Illuſtrious Actions, than Principles of Intereſt, and the baſe Dictates of Avarice, which ſeldom or never fail to accompany a mean Birth and Education. But how can it be expected, that Men of great Birth and Expectations, will undergo the Hazzard, Hardſhips and Fatigues of the Sea Service for nothing; ſo poorly are the Captains of Ships provided for; and for ſome who have been Warrant-Officers of Ships, and roſe to be Captains within theſe few Years, deſire again to de-

ſcend to their former Employments, by which they had a Subſiſtence for themſelves and Families during Life; whereas being Captains and Lieutenants, and having no Eſtates of their own, nor being by the late Eſtabliſhment within the Number of thoſe who were to receive Bounty-Money, they were expos'd to the Miſeries of Want.

We are not ſo fond of the Notion, *That all Honours derive their Origin from the Sword*, that we wou'd exclude the Arts from an equal Pretence to them; yet it muſt be own'd, that there are no Dignities, as well as Rewards, which theſe do not deſerve, that at the Expence of their Youth and Blood, have faithfully ſerv'd the Publick. And ſince the Publick can be no where ſo well ſerv'd as at Sea, there can be no Honours too great for ſuch as have diſcharg'd their Duty well aboard the Navy: And 'tis with Pleaſure the People of *England* have ſeen ſo many of the Sea Captains honour'd with Knighthood; which before ſo common, was a Dignity the Son of a Prince needed not have been aſham'd of. The *French* King has erected a Military Order on purpoſe to Honour his Sea-Officers; in which he has ſhewn, that he underſtands his Intereſt in encouraging thoſe who can do him the beſt Services: And if we had in *England* Orders, with ſeveral Precedencies, appropriated to Sea Services, it might give a new Spirit to our Officers, and make Gentlemen fond of entring into it; whereas now nothing is more deſpicable. What Man of any Rank will leave his Eaſe at home, to embrace the Dangers and Contempt of a Sea Life, which has this rude Proverb fix'd upon it, *The Sea and the Gallows refuſe No-body*? Who will deny Attendance for an Employment that brings ſo little Credit or Profit? Who will bear the Inſults of a proud Opiniative Miniſter at home, or perhaps of his greaſy Porter, after he has ventur'd his Life, and undergone the Fatigues of the Service at Sea, if he can live without it. To gratify ſome Men's Pride, Perſons of mean complying Spirits are found moſt uſeful; and it has been given out and generally believ'd, that Gentlemen are not fit for the Service at Sea. And why ſo? Do Gentlemen want Courage? Charge any one of them with it, and if he bears it, put him out of the Liſt of ſuch as deſerve any Employment. Have they not Capacity enough to underſtand the mighty Myſtery of Working a Ship, which every dull rude Fellow is as much a Maſter of as the fineſt *Wit* upon the Main? Has it not been found, that their Breeding aſhore hath given a fairer Face to the rough Buſineſs of the Sea, and that they can endure Hardſhips as well as one that never lay on a Feather-Bed in all his Life.

It muſt not be imagin'd ſo much is ſaid in favour of Gentlemen, as if their Birth was thought to give them the Merit neceſſary in the Caſe we are ſpeaking of: For if a Gentleman has not the Qualifications which belong to his Title, as Bravery, Honour, Generoſity, Ambition and Capacity, let him make much of his Title aſhoar; and if without being enroll'd at the Herald's College, if a Perſon is poſſeſt of theſe Qualities, he is the Gentleman we wou'd have employ'd. Sir *Walter Raleigh* giving Prince *Henry* his Advice concerning what Perſons he thought would be moſt proper to be made Captains of Men of War, propoſes the King's own ſworn Servants; for, ſays he, till now the Command of the Prince's Ship was thought a Poſt for a Peer. He alſo thought it adviſeable for the King to diſperſe ſeveral of thoſe Servants of his aboard the Fleet, that they might gain Knowledge and Experience there, and be fitted for the Command of his Ships: By which Means he would have the Advantage of having Men of the beſt Families and Circumſtances in his Fleet, and not Men of mean Condition; and that the King (by their being often near his Perſon) would gain a perfect Knowledge of all Matters relating to his Navy, and not be at a Loſs concerning any Miſcarriages which might happen: Whereas if the Command of his Ships ſhould be given to ordinary People; who, by reaſon of the Lowneſs of their Rank, could not gain Admittance to the King's Preſence, he wou'd never be acquainted with the true State of his Naval Affairs, but always have it miſrepreſented by Malice, Envy, or Ignorance. If it was now frequent for Men of Quality and Eſtates to be by ſome agreeable Baits drawn into the Sea Service, and their Service rewarded with Honours and otherwiſe, there would not be ſo much Complaint of People's Idfidelity and Cowardiſe. Emulation would prompt Gentlemen to ſignalize themſelves; whereas all the mean Man has in View by obtaining or keeping his Poſt, is to get Bread for himſelf and Family, and ſecure a Subſiſtence as ſoon as he can. Perſons of Condition and Fortune have more Advantages of obtaining the Affection and Regard of thoſe under his Command, by being bountiful and obliging. Where there is much Reſpect due, and not too much requir'd, it wins the Heart of Inferiors; and what mighty Effects Magnificence and Complacency have had in Armies, Hiſtory is full of; whereas Officers who have nothing to give, and who are by their Neceſſities put upon Meaſures of Injuſtice and Oppreſſion, which will infallibly loſe them the Love of thoſe they command. Beſides, 'tis too common, that mean Men after they are advanc'd, become cruel: For being conſcious to themſelves

ſelves what they have been, they think it impoſſible to maintain their Character with ſuch as formerly were their Familiars, but by Pride and the utmoſt Severity. If they are not ſo, they are apt to be too eaſy; and then their Familiarity has the uſual Effects of it, Contempt: Thus Diſcipline grows ſlack, and the End of that is Confuſion and Ruin in all Military Affairs. 'Twill be objected, that the Parliament and *Oliver* employ'd Men that were of the meaneſt Deſcent; and yet no Powers were ever better ſerv'd. Zeal will do every thing: They were animated by their Cauſe; and fondly imagin'd they were doing the Lord's Buſineſs when they did *Oliver*'s. This Fancy was enough to inſpire them with invincible Courage: They did not value their Pay nor Preferments, if the Work was done. And when we can get Captains of ſuch Principles, 'twill be no matter whether they are of high or low Degree. They were Teachers as well as Commanders: Virtue was as much promoted in the Fleet as in the City. And whereas an Officer now-a-days has a mean Opinion of himſelf if he does not ſwear with as good a Grace as his Neighbour, Vice was then puniſh'd aboard Ship; and a modern Sea Captain would have been a Creature whom they would have thrown into that Element where Roaring and Damning are ſo much in Faſhion.

The general Complaint of the Want of Learning, Piety and Morals in the Sea Parſons, would make one wonder how ſuch a Grievance paſſes without remedying, if one was not pretty ſure that 'tis not generally deſir'd to be remedy'd. Not but that there are Exceptions to this general Complaint, and many Reverend, Learned, Pious Divines have been known in the Fleet; where may the Number of them encreaſe till there is no Reaſon to complain. *A pious Captain would be* an odd ſort of an Officer in our Navy; and, as a Gentleman who knew what he ſaid, was pleaſed to ſay, *As great a Jeſt as the Chaplain.* While this Opinion prevails, whatever Succeſs we have, we muſt look upon it as the Effect of Chance, and not of that Vertue which Heaven delights to bleſs, and which is Crown'd with true Glory.

Since this Diſorder is univerſal, there is nothing to be ſaid for one Rank of Men more than another: But 'tis probable, that a Man vertuouſly and generouſly bred, will ſet the moſt ſhining Example, and be aſham'd of the Vices of the Rabble; at leaſt he is more likely to be ſo than one born of, and bred up with the Dregs of the People. The employing of Men of Quality in the Sea Service, as well as the Land, has been the Practice of thoſe Nations who were at any Time Great in their Maritime Power.

The

The *Romans* held it the Duty of their Conſuls (a Title by them made ſuperior to that of King) to command their Fleets in Perſon; and when Conſuls were choſen, one had the Fleet, the other the Army, aſſign'd him. Upon their beginning to apply themſelves to Naval Affairs, they choſe two Officers call'd *Duumviri*, who were the ſame with our Commiſſioners of the Navy; and even they ſometimes (but that was before the *Romans* had any Ships of their own) commanded alſo at Sea. Afterwards their Fleets becoming more conſiderable, the Conſuls took the Command of 'em to themſelves, and the *Duumviri Navales* were ſeldom nam'd; and then only in order to the fitting out and refitting Ships, and furniſhing them for a Battle with proper Artificers, Oars, Proviſions, Arms and Machines, us'd in Naval Fights at thoſe Times; andeven this Charge was of ſuch Importance, that the Conſuls very often took it upon themſelves. The firſt Conſuls we read of that led the Fleet againſt the *Carthaginians*, who were old train'd Seamen, were *Cn. Cornelius*, and *C. Duillius*; but they were not in one Ship like Joint Generals, as Sir *John Denham* merrily repreſents *Albemarle* and Prince *Rupert* in his Advice to a Painter.

——————————*Rattling from afar*
Both in a Box, like the two Dice of War,
United Gen'rals; ſure the only Spell
Wherewith United Provinces to quell.

Cn. Cornelius was ſurpriz'd; but *C. Duillius* obtained a Victory and Triumph.

Monſotus tells us, that the Command of the *Roman* Fleet was ſometimes given to Conſuls, ſometimes to Pro-Conſuls; ſometimes to Prætors, and ſometimes to Pro-Prætors; which were Offices of the firſt and greateſt Dignity in the *Roman* Commonwealth: But *Pompey* the Great was made Admiral to deſtroy the Pirates, who had made themſelves Maſters of the *Mediterranean*. *Pompey* had not only the Command of the Fleet, but all the Sea, and 50 Miles from the Sea up into the Country, to continue for 3 Years. He had under him 24 Senators, Lieutenant-Generals or Vice Admirals, all of whom had been Conſuls, Prætors, or Generals of Armies; which is an Argument, that the *Roman* State and Gentlemen had another Opinion of the Sea Service than we have. The *Venetians*, our Contemporaries, agree with them as much as they differ from us: For whatever they do in their Land Armies, by giving the Command of them to Foreigners, and not ſuffering any of their Nobility to be Soldiers; yet none but their Nobles of the Firſt Order

Order have the Command of their Fleets; and the having had that Command, qualifies a Man to pretend to the higheſt Preferment in the *Venetian* Republick, even the Dignity of *Doge*, or the Veſt of a Procurator of St. *Mark*, which is more contended for than that of *Doge*, by moſt of the Nobility of *Venice*. Shall the *Engliſh* then, whoſe Empire at Sea is extended far beyond that of the *Romans*, and in Compariſon of which the *Venetian Adriatick* is but a ſmall Fiſh-pond, make ſo light of our Naval Affairs, as to think any Perſon, tho' of unknown Names and Originals, fit for the Commands of our Ships and Squadrons? Is there any Thing deſerves more the Care of the State? Why ſhould the Nobility think Naval Employments below them? Is there any one of them greater than the Great *Pompey*? And are not Conſuls, Pro-Conſuls, Prætors and Pro-Prætors, a Match for our Titles, with as much Deference as they enact from their Inferiors. When Rewards and Honours are duly diſtributed, there will be found a noble active Spirit, which will reſtore to *England* that Dominion of the Sea which has been ſo long her Right, but now is infring'd upon daily by our little Neighbours: For even the *Danes* and *Swedes* begin to refuſe that Homage to us in the *Britiſh* Seas, which has been ſo many Ages indiſputably due to the *Britiſh* Monarchy.

Much Murmuring has been at the Management of the Maritime Affairs in the preſent War; but till any one ſhall undertake to point out to the Particulars of this general Charge, and put thoſe whoſe Buſineſs it is into a better Method, it ought to be believ'd that they are in the right; and that thoſe who talk otherwiſe meddle with what they do not know, and with things that do not belong to them.

THE

THE FORMER

ESSAY

CONTINUED BY

ANOTHER HAND.

BEfore we come to treat of our own *Sea* Affairs, let us look a little into the Original of Navigation; and we cannot follow a better Guide than Dr. *Godolphin*. The World was no sooner created, but Man had Dominion over the Fiſh of the Sea *Jure Divino*, which cou'd not be well without *Naval Architecture*, and ſome Skill in the *Art* of *Navigation*. 'Tis now near 4000 Years ago ſince *Noah*, that *Totius Orbis Thalaſſiarchus*, or High Admiral of the whole World, with his Ship call'd the *Ark* of *Gopher*, laden with a Cargo of the whole Univerſe, after near a ſix Months *Voyage*, arrived ſafely at *Ararat*, his Port of Diſcharge in *Armenia*, which was re-peopled by his Progeny. Whether his Sons *Sem*, *Cham* and *Japhet*, acquir'd the *Dominion* of *Aſia*, *Europe* and *Africa*, by *Naval* Adventures, is a Diſpute of too old a Date to be determin'dwith Certainty: Nor are the Conqueſts of *Jupiter* King of *Crete*, over the *Pirates*, and his Son *Minos*'s *Naval* Victories over the *Athenians*, better aſcertain'd in Hiſtory. But 'tis with more Authority that *Theſeus* is ſaid to have vanquiſh'd *Taurus*, *Minos*'s *Admiral*; and that *Dædalus*, a *Cretan*, to avoid that King's Tyranny, fled from *Crete* into *Sicily*. 'Tis true, the Flight of the latter was, according to the Fable, with Wings; but the *Mythologiſts* rationally expound it to be the Sails of his Ship. Some are of Opinion, that former Ages were ignorant of this Art of *Navigation*; for that they engrav'd *Non ultra* upon *Hercules*'s Pillars. The Nations about *Pontus* doubting whether there was any other Sea but their own, *Pontus* became a Word us'd for the

the Sea in general. *Promotheus*, as ſays *Æſchilus* the Tragedian, challeng'd all the Glory of this Art of *Navigation* to himſelf. All theſe things are doubtful, and give the Reader only the Opinion of ancient Times, collected from Fables and Tradition. 'Tis certain, that the firſt Nation who made any Figure at Sea, and had any conſiderable Maritime Empire, was the *Rhodians*; of whom, and their Sea Laws, enough has been ſaid already in the preceding Sheets; as alſo of the other States who after them enjoy'd Dominion at Sea. Some will have the *Phænicians* to be older Navigators than the *Rhodians*; and 'tis probable they were ſo; but then it does not appear that their Sovereignty of the Sea was ſo well fix'd, that they cou'd preſcribe Laws and Rules of Naval Diſcipline ſo early as the *Rhodians*; tho' there are good Reaſons to believe they were as early vers'd in Maritime Affairs; they being by ſome accounted the Authors of Navigation, as of Arithmetick and Aſtronomy.

Prima ratem Ventis credere docta Tyrus,

Says *Tibullus*. They were the firſt that took the Obſervation of the North-Star; and they taught the *Græcians* what they knew of the Art of Navigation, when a Colony of them ſettled in *Greece* under *Cadmus*. The *Phænicians* tranſported *Io* out of *Greece* into *Ægypt*, and were the firſt that deſcry'd the two Poles. By *Phænician* was generally underſtood the Sea Coaſt of *Syria*, which the *Hebrews* call'd *Canaan*, and the Inhabitants *Canaanites*. *Dionyſius* reports, they were the firſt Mariners, Merchants, and Aſtronomers; and *Tyrus* the Maritime Metropolis of thoſe Trading Parts of the World. We read of her Luxury and Commerce in ſacred Writ, where ſhe is ſtil'd a Merchant: Her Ships, as we read in the ſame Holy Records, were made of Fir, their Maſts of Cedar, their Oars of *Buſham* Oak, the Hatches of Ivory, the Waſt Cloaths, Vanes, Flags and Pendants, of Purple and Scarlet. The common Mariners were the *Zidonians*, and the Inhabitants of *Arvad*; their Caulkers the Inhabitants of *Gebal*, and their Pilots the wiſe Men of *Tyrus*. We have ſeen what other Nations encourag'd Traffick, and became great at Sea. *Erythrus*, King of *Ægypt*, was, as we are told, the firſt that brought Ships into the *Red Sea*; from thence call'd *Erythreum Mare*. The *Cathaginians* being but a Colony of the *Phænicians*, 'tis no wonder they apply'd ſo much to *Navigation*; and their Power growing formidable at Land, they were ſoon in a Condition to extend it over the whole *Mediterranean* Sea. They made ſeveral Maritime Diſcoveries under *Hanno*, *Hamilcar*, and

and other famous *Carthaginian* Captains: Even the great *Hannibal* was Lord High Admiral of *Carthage* in the 158*th* Olympiad.

It has been mentioned in the foregoing Pages, that ſeveral Cities in that Sea, had, after the Declenſion of the *Romans*, aſſum'd the Power of giving Laws there in Maritime Caſes, according as they increas'd in Strength and Riches. Mention alſo has been made of the Pretenſions of the Northern Parts of the World to the Sea Dominion, which can never be maintain'd without a great *Navigation*; and of thoſe of *Great Britain* in particular, to the Dominion of the narrow Seas, and a conſiderable Part of the Ocean. Wherefore nothing remains to be ſaid on that Subject here, only that it is for the Glory of *England*, that the Sea Laws of *Oleron* are now, and have been for 500 Years, the legal Standard of all Naval Diſcipline in the Chriſtian World; eſpecially in the *Mediterranean*: For tho' the *French*, the moſt aſſuming People upon Earth, vainly pretend to the Honour of giving thoſe Laws, becauſe they were made at *Oleron*, now belonging to *France*; yet it is certain, that Queen *Elenor*, Mother of King *Richard* I. order'd them to be drawn up, and that that King publiſh'd them in that Iſle at his Return from the Holy Land, in the fifth Year of his Reign. It will not now be diſputed whether the Crown of *England* has a rightful Claim to the Sovereignty of the *Britiſh* Seas; and we ſhall therefore proceed to ſay ſomething of the antient and modern State of Sea Affairs in ſeveral Parts of *Europe*, particularly in our own Iſland of *Great Britain*. The *Corinthians* are ſuppoſed to be the firſt that ever formed or modell'd Navies at Sea, in a Claſſical Way. The *Athenians* had two Chief Magiſtrates for their Maritime Affairs; the one was to provide ſuch a Number of Ships for this or that Deſign; each Captain having in Charge to look after the equipping of his own Ship: Theſe Captains they call'd Trierarchy. The other had Power of ſetting them to Sea, and of ordering them home again at his Pleaſure. He order'd the ſeveral Squadrons to ſuch and ſuch Stations and Places of Rendezvous, and diſcharg'd them as he thought fit. This was that *Thalaſſiarchus*, or Admiral of the *Athenians* we read of in Story. They had ſometimes more Admirals than one at once, as *Nicias* and *Demoſthenes*; at other Times one only, as *Alcibiades*, *Pericles*, *Cimon* and others. *Alexander* the Great and his Succeſſors, in their ſeveral Kingdoms, had their Admirals ſometimes *Græcians*, and ſometimes Men of other Countries; ſuch were *Nearchus*, *Oneſicratus*, *Beton*, *Diognot*, and others; as alſo *Patroclus*, under *Nicanor* and *Seleucus* of the *Syrian* Monarchy. But moſt memorable is that Commiſſion which was given by *Ptolemeus Philadelphus* to

Dicearchus his Admiral, as if he had been to take an exact Measure of the Circumference of the whole World by a Line of *Navigation.*

Among the *Phœnicians*, the *Tyrians* and *Sidonians* were the most eminent in all Maritime Affairs, as has been hinted already in more Places than one of this Work. These not only transported various Merchandizes, till then unknown, from one Port to another; but also made divers new Discoveries, and planted Colonies at *Utica*, *Hippone* and *Lepte in Africa*, at *Thebes* in *Greece*, and at *Gades* and *Carthage* that which is in *Spain.* The *Carthaginian Hanno*, by Order of the Senate, discovered the utmost Coast of *Africa*, even to one Degree of the Equinoctial; and *Hamilcar* great Part of *Europe*, till then unknown to the *Carthaginians.* Under the *Roman* State, when *Pompey* warr'd with *Cæsar*, there were almost as many Admirals as there were Nations, on one side or other. *M. Bibulus*, who had been Consul with *Cæsar*, and was now one of his greatest Enemies, was Lord High Admiral of the *Ægyptians*, *Asiaticks*, *Rhodians*, *Syrians*, *Achaians*, and others. But when *Augustus Cæsar* was become Master of the *Roman* Empire, and the Government was reduced to an Establishment, that of the Admiralty was settled; which not long after was again divided into two Parts: For there was one Admiralty at *Misene*, and the adjacent Ports for the South: Another at *Ravenna*, for the East: Which two, for Distinction sake, they call'd the High and Low Seas; each whereof was under the Command of his proper Admiral, whom they call'd *Præfectus Classis*, as the Captains of their Ships were known by the Stile of *Navarchi.* There was antiently in the *Roman* Empire, a Company or Society of Owners and Masters of Ships; as also of Merchant Adventures at Sea in the Isle and City of *Rhodes*; of whose Sea Laws enough has been said. History is full of their Naval Victories, and the Praise of their Skill in Navigation. But this Famous Isle being at last reduc'd from the Glory of a splendid, to the Eclipse of a decay'd Merchant, by reason of the many Irruptions and Incursions made by the *Turks* and other Nations; especially the former, a little before the Reign of *Charles* the Great: The Gallantry of the *Rhodian* Fleets soon after vanish'd, after he had flourish'd there longer than in any Country whatsoever. From them it has been shewn, that the Naval Glory past the *Streights*, and rose again in the *Baltick*, where it shin'd like a Comet at *Wisbich*, and the *Germans* were the most considerable Navigators of the World, till the Discovery of the *West Indies* set the *English* and *Dutch* upon enlarging their Maritime Traffick; and those two Nations, in the Course

Courſe of 100 Years, form'd a Power at Sea, which has render'd all the Pompous Stories of the *Carthaginian* and *Roman* Power at Sea, mean and contemptible: For as they are now in Conjunction, where is there a Squadron of Ships in the World, from the *Baltick*, nay from the *Streights* of *Weygatz* to thoſe of *Malabar*, from one Pole to the other, that dare ſtand in any one fix'd Station, to aſſert a Dominion at Sea? What the *French* do, is Piratical: Their Boaſted Royal Fleets are rotting in their Harbours, and their Sea Captains gain all their Advantages by Stealth; ſo that they are to be look'd upon at Sea, but as a Company of Robbers and Banditti, among whom perhaps there may be one more bold and fortunate than another. What the other Nations of *Europe* may pretend to is inſignificant; and if any of 'em have any Dominion there, 'tis a precarious one, which is rather ſuffer'd than allow'd, and which they can better maintain by Words and Memorials than by Arms.

Having had Occaſion ſo often to mention the Word *Admiral*, 'twill not be improper to obſerve whence it is deriv'd, and when it came in uſe in theſe Parts of the World, particularly *England*. The *Greek* Derivation from the *Greek* Word, ἁλμυρὸς, *Salſus* and Words of like Signification *a Salſugine*, *Elementi cui imperat*, from the Saltneſs of the Element where properly his Authority and Juriſdiction reſide, is exploded with a great deal of Reaſon by Sir *Henry Spelman* and others. Nor will that from *Ameral* in *French*, ſignifying an High Officer or Magiſtrate in Sea Affairs do better: For that Office, by other Names not much diſſonant to this of *Admiral*, was antiently known in the World, when there was no ſuch thing in *France*. 'Tis ſaid, *Iſti Admirales Magiſtratus creati ſunt*, and theſe Admirals were Magiſtrates created in *Conſtantine*'s Time. Some conceive the Word *Admiral* comes from the *Saxon Aen Mere eal*, that is over all the *Sea*. This was done purely for the Sound ſake: For tho' other Nations do us the Honour to own, that their Admiral comes from the *Saxon*, *Hadmiral*, ſignifying *Præfectum Maris*; and the *Saxons* were great at Sea in 100 Years after *Conſtantine*'s Time; yet then they were far from being ſo conſiderable in their Navigation, that the Empire ſhould borrow a Word from them to call the Chief Commanders of the *Roman* Fleet by. Others think the Word comes from the *Saracens Admirantes*; becauſe in the Infancy of that Empire, there were *Quatuor Admirantes, hoc eſt, Militum Præfecti qui Terra Mariq; pugnarent*. But the *Saracens* having no Uſe of this Office till the Holy Wars, thoſe who derive the Word much higher than the *Croiſſades*, and rather from the *Greek* than the *Arabick*, are more

likely to be right in their Derivation. But the righteſt of all, in the Judgment of the learned, are thoſe who derive the Word *Admiral* both from the *Greek* and *Arabick*. For that *Amir* in the *Arabick* ſignifies *Princeps Præfectus*, and ἄλιος in the *Greek*, *Marinus*; it being common in the Eaſtern Empire, as Sir *Henry Spelman* obſerves, to have Compound Words of two Languages. In *Homer*, ſays Dr. *Godolphin*, we find the Word ἅλιος *pro Rectore Maris*, and even for *Neptune* himſelf. From this Compound Term, *Amirallius*, as the before-mentioned Doctor inclines to believe, comes our *Admiral*, and all the Words of the ſame, or the like Sound in almoſt all the modern Languages for the ſame Office. In the Eaſtern Empire he who was Admiral, was ſtil'd *Drungarious*, as *Drungarious Navigiorum Conſtantinopoli*, *Drungarius Claſis*, &c. This *Drungarious* was a ſubordinate Officer under their Great Duke, and was alſo ſtil'd *Ameralius*, which was a Name commonly given in the Eaſt to Princes or Captains by Land. Thus the Tyrant of *Babylon* was call'd *Admiralius*; and *Hunttington* ſpeaking of the Siege of *Antioch*, ſays there were 12 *Admiralois Pagænorum* ſlain before that Town. And many Inſtances may be found in my Author before-mentioned, to prove, that in the Eaſt the *Admiralii* or *Amiralii* were ſometimes Land-Officers as well as Sea. The Chriſtians however, never apply'd this Term to any but Maritime Commanders. There were four Admirals or *Amiræi* in the Empire of the Eaſt, when the *Turks* and *Saracens* before them began to extend their Dominion over the Chriſtians in *Africa* and *Europe*. They were alſo call'd *Admirantes*; and 'tis probable the *Spaniſh* Term *Amirante* might come from the *Saracen Admirantes*, they being often left out, and the *Saracens* were Maſters of a great Part of *Spain* for ſeveral Centuries. The one of theſe four *Admirals* had the Sea Command of *Ægypt* and *Africa*: Two others divided the *Spaniſh* Coaſt between them; and the fourth had *Paleſtine* and the Coaſts of *Syria*. 'Tis not determined whether theſe four Admiralties were erected before *Charlemagne*'s Time or after it, and it is not much to our preſent Purpoſe to enquire into it. *Rullandus* or *Rolandus* was the firſt High Admiral of the *Franks*, that is, of *Charlemagne*'s Empire: But if no Part of it had been more Powerful at Sea, than that which is now called *France*, it had not been worth that Monarch's while to have created an Admiral. At that Time, and afterwards, the *Engliſh* and *Danes* were ſtrong at Sea: We read of a Fleet of 3000 Ships for the Defence of *England* in *Edgar*'s Time; and tho' we readily agree with thoſe who ſuppoſe they were ſmall Craft, yet let them be as little as they will, the Num-

A View of the Admiral Jur. p. 17.

ber proves, that the Navigation and Shipping of *England* were conſiderable near 1000 Years ago. It has been obſerved elſewhere, that the Kings of *England* had their High Admiral long before the Kings of *France* pretended to it; which was in *Lewis* VII's Time: From which till *Philip* IV. there was only one Admiral in *France*. After that there were two, and afterwards more than two at one and the ſame Time; each dividing his Juriſdiction according to the Coaſts of their ſeveral Provinces. This High Officer, L' Admiral, in point of Dignity is next to the High Conſtable of *France*. There was antiently an Admiral for *Guienne*, another for *Bretagne*, and another who was *Generalis in Francia*: But of latter Time the Three have been reduced to One, who exerciſes his Juriſdiction at the Marble Table *in Palatio Pariſienſi*. And notwithſtanding what is ſaid of *Roland* aforeſaid, *Enguerrante de Cauſy* in *Philip* III's Time, or *Americus* of *Narbonne* in King *John*'s, was the firſt Admiral of *France*, ſince the Empire paſt from the *Carolovingian* to the *German* Lines; whereas 'tis certain we had a Lord High Admiral of *England* before either *Americ* or *Enguerrant* were heard of; and on that account 'tis probable we rather borrow'd our Word *Admiral* from the *Spaniſh*, *Almirante*, than from the *French*, *Admiral*; we having the Office before them. *Spelman* is of Opinion, that *William de Leiburne* was the firſt that held it in *England* by the Title of *Admiral*, in *Edward* I's Reign, about the Year 1286. Soon after it became Tripartite, when the ſaid *William de Leiburne* was made Admiral of *Portſmouth*, on the South Fleet, and *Jonn de Bote Curts* of *Yarmouth* and the North Fleet; another was put over the Weſt and *Iriſh* Coaſts. Afterwards the Eſtabliſhment was continued for two Admirals a long Time; one for the North Station, which began at the Mouth of the River of *Thames*, thence extended it ſelf Northward, taking in *Yarmouth* and all the Eaſtern Shore; the other for the Weſt Station, which began alſo at the Mouth of the River of *Thames*, and ſtretched it ſelf Weſtward, taking in *Portſmouth*, and all the South and Weſt of *England*. Sometimes a Prince of the Blood, or Great Lord, was ſtil'd *Admirallus Angliæ*; and the firſt who had that Honour was *Richard*, younger ſon of *Alan* Earl of *Arundel* and *Surry*, in the 10*th* of *Rich.* II. Tho' Sir *Henry Spelman* has given *William de Leiburne* the Preference in the Diſpute of Elderſhip concerning the Admiral of *England*; yet it is certain, that *Matthew Paris* makes mention of one *Balac*, who was *Amirallius Angliæ* in *Henry* I's. Time, 150 Years before *William de Luiburne*. However, 'tis as certain, that Appellation was not ſettled till *Edward* I. for *Richard* I. gave his Chief

Chief Commanders at Sea, the Stile of *Ductores, Juſticiarii & Conſtabularii totius Navigii*; and *Henry* II. when he gave that Command to *Thomas de Moleton*, 'twas as *Capitaneum & Cuſtodem Maris (non Admirallium)* not as Admiral. Tho' it muſt be confeſt, that ſuch an Officer, with other Names, may be trac'd as high in this Iſland almoſt as the Hiſtory it ſelf, as is ſhewn in the Diſcourſe of the Maritime Sovereignty of the Crown of *Great Britain*; wherein alſo much has been ſaid of the Strength of the ſeveral Kings and Queens of *England* at Sea, and in what manner they have aſſerted that Sovereignty. *France* was in no Condition to give us any Diſturbance that way, till the Reign of King *Charles* II. which, as free as it was from War, prepar'd the way for that long and bloody one, which has laſted now above 20 Years, with a very ſmall Interval of Peace. Was it not a wonderful thing, that a Prince who might ſo eaſily have ſecured the Naval Dominion of *England*, and by putting a Stop to the *French* Greatneſs at Sea, have prevented his Oppreſſions by Land? For while *England* is Miſtreſs of the Sea, ſhe will always have it in her Power to maintain the Ballance of *Europe*, and prevent the Incroachments of ambitious Princes abroad. Was it not wonderful, that King *Charles* ſhould ſuffer *Lewis* XIV. to ſurprize him with a Maritime Strength, which 10 or 12 Years afterwards was a Match, or at leaſt pretended to be a Match for both *England* and *Holland* at Sea; where the *French* durſt not 60 Years ago have diſputed for Dominion with a *Dutch* Town. What Condition K. *Charles* was in to oppoſe the *French* King in his Attempts to ruin the *Engliſh* Navigation, and conſequently enſlave the Nation, may be ſeen by a State of his Fleet, as left us by Mr. *Pepys*, in a Treatiſe he publiſh'd *A. D.* 1690. which gives an Account of the Strength and Weakneſs of the Navy from the Year 1678 to the Revolution, and there Mr. *Burchett* begins his. Mr. *Pepys* was Secretary to the Duke of *York*, Lord High Admiral; and about *April* 1679. when the Duke of *York* was commanded aboard, he was ſhut up in the Tower: For what Reaſons no Man can expect that Mr. *Pepys* would tell himſelf; and indeed it does not appear in his Memoirs, that his Impriſonment was very juſt. The Duke of *York* was removed from his Office of Lord High Admiral, and Commiſſioners or Lords of the Admiralty, to uſe a more modern Phraſe, were put in his Place. The Parliament had enquir'd into the Affairs of the Admiralty with great Exactneſs, and the Managers of them were not ſo well beloved, but that if any Fault had been found among them, it would have been ſoon known. A War with *France* was deſir'd, and the Navy made ready for Action, as the

Memoirs relating to the State of the Royal Navy of England *for* 10 *Years, determined* Decemb. 1688.

the *Memoirs* tell us; but whether the Court intended really to comply with the Deſires of the Parliament, with Reſpect to breaking with *France*, does not appear by them: Tho' we may ſee plain enough, by the State of the Fleet, it was in a very good Condition to have broken the *French* King's Maritime Power, without the Aſſiſtance of the *Dutch*, which wou'd not have been wanting.

Abſtract of the Fleet in Auguſt, 1678.

		Number.	Men.
Rates.	1	05	3135
	2	04	1555
	3	16	5010
	4	33	6460
	5	12	1400
	6	7	423
Fire-ſhips		06	340
		83	18323

Theſe were actually in Service, beſides a numerous Train of Hired Ships, Ketches, Yatchs, Smacks, and other ſmall Craft. The Men of War were furniſh'd with ſix Months Stores. The Annals of that Year will ſhew to what Purpoſe this Armament was made, or rather that it was made to no Purpoſe at all. The next Year 1679, the Number was leſſen'd, and we find there were in Pay but

		Number.	
Rates.	1	01	
	2	03	
	3	15	Men.
	4	30	12040
	5	12	
Fire-ſhips	6	78	
		76	

And the Remainder of the King's Ships might have been fitted to Sea, and furniſh'd with Sea Stores for 50000 *l.* Thirty new Ships were alſo building; ſome of which were in great Forwardneſs, and 60000 *l.* Worth of Stores lay untouch'd in the Magazines. And 'twas in this Year that Mr. *Pepys* places the Perfection of the Naval State, in King *Charles* II's Reign, whom he

he highly commends for his *tranſcendant Maſtery in Maritime Knowledge*. The Commiſſioners continued in the Management of the Navy 5 Years, to the great Detriment of the Fleet, as the Memoirs report; and then King *Charles* reſtor'd the Office of Lord High Admiral to his Brother, who recall'd Mr. *Pepys* to the Exerciſe of his Function, as Secretary to the Admiralty. And it was high Time:

For in the Year 1684.

Twenty four Ships were only at Sea, not one above a fourth Rate, and employing but 3070 Men.

		Number	
Rates	4	12	2120
	5	05	560
	6	05	325
Fire-ſhips		02	65
		24	3070

The Remainder of the Ships were ſo out of Repair, that it would have coſt 120000 *l.* to refit them, beſides the Expence of furniſhing them with Sea Stores, of which the Magazines were ſo unprovided, that there was to the Value of 5000 *l.* in them. The 30 new Ships were ſuffer'd to rot in the Harbours, out of which they had never ſtir'd: Inſomuch, that ſeveral of them were reported by the Navy Board, to lie in Danger of ſinking at their very Moorings: Yet above 600000 *l.* had been ſpent in their Building, and 70000 *l.* more was demanded to compleat them, amounting to 670000 *l.* which exceeded the Eſtimate that had been given of the Coſt, and even the Charge with ſome of them appear'd to be actually built for by 170000 *l.* Tho' the Fleet was in this ſad Condition, the Managers of the Navy had receiv'd 400000 *l. per Ann.* for its Uſe all the while the Commiſſioners had the Management of it. Such was the State of the Fleet at King *Charles*'s Death, and ſo far was it from mending after King *James*'s coming to the Crown, that after 90000 *l.* had been diſburſt in Repairs, the Navy Officers ſtill demanded the ſame Sum the Work had by themſelves been valued at before a Penny had been diſburſt. There was but one Fourth, and not ſo much as one Fifth Rate in a Condition of being got to the Sea, when the Duke of *Monmouth* landed. The 30 Snips lay almoſt in the ſame dan-

dangerous Condition, without being touch'd, tho' Money had been ſupply'd for that Service. The Stores were wanting every where: Twice as much Time was demanded for fitting out 42, as had a Year before been ask'd for 55: No Proviſion made of the moſt neceſſary Materials, tho' Money was ſupplyed for that Uſe. Theſe and ſeveral Inſtances of Miſmanagement, mention'd by Mr *Pepys*, had reduc'd the Navy to ſuch a miſerable State, that without ſome inſtant Remedy it was thought to be deſperate; and the King commanded that Gentleman to give him his Thoughts on the Matter: Which he did in a Letter printed in the Memoirs. Upon which the King ſuſpended the Old Board, who were kept in full Salary, and made four new Commiſſioners.

Sir *Anthony Dean.*
Sir *John Berry.*
Mr. *Hewer.*
Mr. *St Michell.*

Sir *Anthony Dean* was one of his Majeſty's Chief Builders, and endeavour'd to avoid being put into the new Commiſſion; but the King would not excuſe him; and upon this, Mr. *Pepys* preſented a Liſt of the moſt eminent Shipwrights of *England*, for his Majeſty to chooſe one out of them to ſupply Sir *Anthony Dean*'s Place.

Maſter Shipwrights employed by the King.

Sir *John Tippets*, Sir *Phineas Pett* } Commiſſioners at the Board
Mr. *Lee*, at *Chatham.*
Mr. *Betts*, at *Portſmouth.*
Mr. *J. Shiſh*, at *Deptford.*
Mr. *Lawrence*, at *Woolwich.*
Mr. *Furzer*, at *Sheerneſs.*

Mr. *Dummer*, Mr. *Pett* } at *Chatham.*
Mr. *Stiggard*, at *Portſmouth.*
Mr. *Harding*, at *Deptford.*
} Maſter Shipwrights Aſſiſtants.

Private Builders employed by the Merchants.

Sir *Henry Johnſon* } at *Blackwall*.
Mr. *Collins* }
Mr. *R. Caſtle* at *Deptford*.
Mr. *Graves* }
Mr. *John Shiſh* } *Rotheriff, Ratcliff, &c.* in the *Thames*.
Mr. *Barham* }
Mr. *Narbrow*. }

The Old Commiſſioners.	*New Commiſſioners.*
Lord *Falkland*	Sir *Anthony Dean, &c.*
Sir *John Tippetts*	
Sir *R. Haddock*	
Sir *P. Pett*.	
Sir *J. Narborough*	Treaſurer, the Lord *Falkland*.
Mr. *Southern*	
Sir *R. Beach*	Secretary, *Samuel Pepys*, Eſq;
Sir *J. Godwin*	

The Old and New Commiſſioners were join'd together, each had his Poſt aſſign'd him for the Diſpatch of Affairs, and went vigorouſly to work to recover the Navy out of the languiſhing Condition it then was in; and among other Things it being found by Experience, that *England* did not produce Plank enough for all the preſent Occaſions, after a Conference between the Commiſſioners and the Maſter-Builders, the latter reſolv'd, that the beſt Plank came from *Poland* and *Bohemia*, and was ſhipp'd at *Dantzick*, *Riga* and *Hamburgh*.

THE

THE
Uſe, Coſt, and Duration
OF
FOREIGN PLANK,
COMPARED WITH
ENGLISH:
DELIVERED

To the Lords of the Admiralty by the Maſter-Shipwrights of *England*,

April the 17*th*, 1686

FOR ſo much as concerns ſmaller Veſſels of 80 Tuns downwards (whoſe Works call not for more than 2 Inch Plank of 20 Foot long at the higheſt, meeting at 13 and 14 Inches in Breadth) our *Engliſh* Plank will (from the Nature of the Wood) laſt longer than *Foreign* of the ſame Dimenſions: But for Ships of 300 Tuns upwards, which require the Service of 3 and 4 Inch Plank, from 26 to 40 Foot long, meeting at 14 and 15 Inches breadth at the Top End, univerſal Practice ſhews, that the white Crown Planks of *Pruſſia*, and the black of *Bohemia*, do, in their Durableneſs, equal, or rather exceed that of our *Engliſh* Production of like Dimenſions; which we conceive to ariſe from this

plain Reaſon, *viz.* That the *Foreign* Oak being of much quicker Growth than ours, their Trees arrive at a Statute capable of yielding Plank of theſe Meaſures, while they are yet in their ſound, and vigorous State of growing; whereas that of *England* advancing in its Growth more ſlowly, arrives not at theſe Dimenſions till it be come to, or rather is paſt the full of its Growth; fifty Years ſufficing for raiſing the *Foreign* to what the *Engliſh* will not be brought to in an hundred and fifty.

But whether we are right or not in this Reaſoning, it is upon daily Experience moſt evident, that our *Eaſt India*, and other Ships of greateſt Burthen built with this large *Foreign* Plank, well choſen, prove in their Durableneſs without Exception. Variety of Inſtances lying before us of Ships built wholly of *Engliſh* Stuff, as well in his Majeſty's Yards as Merchants, which have periſh'd in half the Time others of like Burthen, compos'd wholly of *Foreign*, have been obſerv'd to do.

From hence alſo it is, that tho' *Engliſh* Plank of ſhort Lengths, cut out of young growing Timber, is manifeſtly better than Eaſt Country, and therefore is preferr'd thereto in laying of a Gun-Deck, as far as three Streaks next the Ship's Sides, where ſhort Stuff will ſerve (the Quality of its Wood bearing better with being kept well and dry, as it generally is in that Place;) yet where (upon the ſame Gun-Deck) long Plank is neceſſary, that of *Foreign* Growth is, for Strength and Duration, always preferr'd, from the Reaſon (as we conceive) before given, namely of its being cut while in its Vigour; which the *Engliſh* will not admit, ſo as to bear thoſe Scantlings.

And to this is to be further added, the general Wanineſs, want of Breadth at the Top End, and ill Method of Connection of our *Engliſh* Plank; daily Practice ſhewing, that twenty Load of *Foreign* ſhall, in Working, go further upon a Ship's Side of Deck, than an hundred Loads of like Lengths of *Engliſh*, after its Wanes and other Defects ſhall be cut away.

Moreover, it is yet to be noted, that in Planking of a Ship with *Foreign* Plank, the Builder ſhall not be driven to put in above three or four Pieces, where in a like Ship done with *Engliſh*, he ſhall be oblig'd to uſe an hundred; to the no leſs Impairment of the Strength of the Work, than Increaſe of its Charge both in Stuff and Labour.

So that upon the Whole, our unanimous Opinion is, That large Planks, well choſen of the *Foreign* Growths before mentioned, is in its Service, at leaſt as durable, in its Coſt leſs chargeable, and the

the Uſe of it (through the Scarcity of *Engliſh*) become at this Day indiſpenſable.

Jonas Shiſh. *Henry Johnſon.*
Pet. Norberry. *Abrah. Greaves.*
Joſ. Lawrence. *John Shiſh.*
Ja. Yeames. *William Collins.*

ROB. CASTEL.

To which Reſolutions the Commiſſioners agreed, and the King and Council approv'd of it. Notwithſtanding the ſeveral Pretences that were given out to excuſe the late Management of the Navy; eſpecially with Reference to the new Ships Decays, it was occaſioned by the plain Omiſſion of the neceſſary and ordinary Cautions uſed for the preſerving new built Ships; as want of Graving, and bringing into the Dock, Holds not clean'd or air'd, Gratings wanting, Hatches and Scuttles not open'd; their being not keel'd nor breem'd, and expos'd to the Sun with their Sides unwater'd; nor had they Ballaſt enough to deepen them in Water; neither were their Ports opened in dry Weather, and Scuppers were wanting on the Gun-Deck in wet: Their Planks were not open'd on the firſt Diſcovery of their Decays; nor theſe Decays duly look'd to. The Commiſſioners found their Endeavours to remedy all thoſe Evils not ſo ſucceſsful as they wiſh'd, the Want of Repairs proving worſe even than was iſtimated; and 'twas no eaſy thing to bring things under a good Regulation, that had been long going to Wreck, or reſtore Diſcipline among the Sea-Officers, and reform the Diſorders of ſuch as were employ'd in Naval Affairs, and have been too long uſed to commit them. Enquires were made into them by the King himſelf, and in *July* following was put forth,

His Majeſty's Regulations in the Buſineſs of Plate-Carriage, *&c.* with his Eſtabliſhment of an Allowance to his Sea Commanders for their Tables, and other Encouragements to them, their Officers and Companies.

The Diſorders the King inquir'd into were, chiefly the diverting the Publick Service of his Ships to private Uſes, ariſing from the abuſed Liberty of carrying Plate, Bullion and Jewels, or other Merchandize or Goods from Port to Port, or from any Foreign Port for *England*; or to carry, direct the carrying any Paſſenger or Paſſengers, *&c.* from one Place to another in Men of War, unleſs

unleſs by Warrant from the King, *&c.* under Forfeitu re otheir Commands, *&c.* Copies of all ſailing Orders iſſued out or receiv'd at Sea, were to be tranſmitted to the Secretary of the Admiralty. The like was to be obſerved as to Advices of the King's Ships arriving into Foreign Ports, and Abſtracts of their Journals: And as to their Journals and Entry-Books of Orders at the End of a Voyage, all Admirals, Commanders in Chief, *&c.* were enjoyn'd ſtrictly to obſerve theſe Rules; and for their Encouragement, it was ordered, that all Commanders of Ships and Veſſels, Yatchs only excepted, ſhou'd have an Annual Allowance for their Support of their Tables, over and above the common Allowance, to commence from the Time of the Ships being fitted for the Sea, and to end at the Determination of their reſpective Voyages.

A Table of the Annual Allowance of a Sea-Commander of each Rate.

A. D. 1686.

Rate.	Preſent Wages.		Preſent Victualling.			Additional Grants for his Table.	
	l.	*s.*	*l.*	*s.*	*d.*	*l.*	*s.*
1	273	15	12	3	4	250	0
2	219	00	12	3	4	200	0
3	182	00	12	3	4	166	5
4	136	10	12	3	4	124	5
5	109	10	12	3	4	100	0
6	91	00	12	3	4	83	0

And this without leſſening the Allowance already eſtabliſh'd to Flags. To which was added a Grant to them, their Officers and Companies, of the whole Value of the Prizes taken from the People of *Barbary*. Strictneſs of Diſcipline was inculcated with a Promiſe of further Marks of the King's Bounty upon any Signal Inſtances of their Merits in his Service.

Mr. *Pepys* does not forget to let us know how ſerviceable the New Commiſſion before-mentioned had been to the King, and how well pleas'd he was with their Diſcharge of his Truſt in them; as alſo how they had brought the Navy into ſo flouriſhing

a

a State, that upon Intelligence of the *ſurprizing* Preparations then on Foot in *Holland*, the Fleet then at Sea in 1688, had from its ordinary Summer Guard, been rais'd, in leſs than two Months Time, to no leſs than 67 of the King's own Ships and Fireſhips, beſides Tenders, *&c. viz.*

Rates	Number	Men
3	12	4715
4	28	6318
5	02	220
6	5	370
	47	11623
Fireſhips	20	680
	67	12303

'Tis a little odd to ſee almoſt half as many Fireſhips as Men of War in this Fleet; but I ſuppoſe the Managers had laid it out ſo, that the Lord *Dartmouth* ſhould ſerve the *Dutch* in 1688, as Sir *Francis Drake* did the *Spaniards* in 1588; but the *Hollanders* had no mind to be ſo treated. Every Ship, beſides ſix Months Proviſion ordered as before-mention'd in the like Caſes, had a compleat Proportion of eight Months Proviſion, and Stores to the Value of 400000 *l.* in the Magazines. It has been obſerv'd, that Mr *Pepys* was very Inſtrumental in getting the Commiſſion chang'd by King *James*, and he does Juſtice every where to thoſe Commiſſioners who did the Fleet ſo vaſt a Service in ſo little a Time, recovering things from a State of Ruin, and leaving it in the moſt thriving one it perhaps ever was; and all in leſs than 3 Years Time. Conſidering which, it is very amazing that a Fleet inferiour to it by much, ſhould paſs by almoſt in its View, and land that Prince who ſoon became Maſter of both. All that can be ſaid to it is, That the *Engliſh* Seamen have a Deteſtation of Popery and Slavery; and 'twill be much more amazing if it ſhould be known, that an *Engliſhman* ever ſhould do the Buſineſs of Tyranny and Idolatry, in Oppoſition to Truth and Liberty. The Reader will not be diſpleas'd to ſee a Liſt of the *Engliſh* Fleet, as it was at the Time of the Revolution.

A General List of all his Majesty's Ships and Vessels in the Sea Service and Pay upon the 18th *of* December, 1688. *With their respective Rates, Commanders, Lieutenants, Complements of Men, and Stations.*

Rates.	*Ships.*	*Commanders.*	*Lieutenants.*	*Men.*	*Station.*
3	Resolution	Ld. Dartmouth, *Adm.* Captain Davis	Millison Preene	450	
3	Elizabeth	*Sir* J. Berry, *V. Adm.* C. Nevil	Gother Crawley	475	
3	Cambridge	C. Tyrwhit	Wright Bois	420	
3	Defiance	C. Ashby	Bing Littleton	390	
3	Dreadnought	C. Akarman	Bounty Tyrwhit	355	
3	Henrietta	C. Trevanion	Gardner Dilks	355	
3	Mary	C. Layton	Townsend Hayes	355	
3	Pendennis	*Sir* William Booth	Jennings Kerr	460	
3	Plymouth	C. Carter	Foulks Edwards	340	*Channel.*
3	York	C. Delaval	Moody Manly	340	
4	Advice	C. Williams	Haughton	230	
4	St Albans	C. Constable	Killegrew Bundee	280	
4	Antelope	C. Ridley	Pugh	230	
4	Assurance	C. Macdonnel.	Fitz Patrick Granvil	180	
4	Bonadventure	C. Hopson		230	
4	Bristol	C. Leighton	Penn Townsend	230	

Rates.

Rates.	Ships.	Commanders.	Lieutenants.	Men.	
4	Centurion	C. Ellot		236	
4	Conſtant Warwick	C. Cornwall	Hales	180	
4	Crown	C. Robinſon	Wickham	230	
4	David (St.)	C. Botham	Jennings, Walker	280	
4	Deptford	C. Rook	Guy, Bowyer	280	
4	Diamond	C. Walters	Greenway	230	
4	Dover	C. Shovel	Dawes	230	
4	Foreſight	C. Standley	Hubbard, Man	230	
4	Greenwich	C. Wrenn	Vaughan, Audely	280	
4	Jerſey	C. Beverly	Hammond	230	
4	Mordaunt	C. Tyrrel	Carveth	230	
4	Newcaſtle	C. Churchill	Harman	280	
4	Phœnix	C. Gifford	Harriſon	180	
4	Nonſuch	C. Montgomery	Talbot	180	
4	Portland	C. G. Aylmer	Trevanion	240	*Channel.*
4	Portſmouth	C. St. Loe	Beaumont	220	
4	Ruby	C. Frowd	Gillam	230	
4	Swallow	C. M. Aylmer	Whittaker	230	
4	Tyger	C. Tennant	L. W. Murray	230	
4	Woolwich	C. Haſtings	Talmaſh, Baker	280	
6	Lark	C. Grunſditch		85	
6	Saudadoes	C. Graydon		75	
Bomb.	Firedrake	C. Leak		75	
Ketch.	Quaker	C. Allin		40	
Yatchs.	Cleveland	C. Hoskins		30	
	Fubbs	C. R. Sanderſon		40	
	Iſabella	C. W. Sanderſon		30	
	Katherine	C. Clements		30	
	Kitchin	C. Crow		30	
	Mary	C. Fazeby		30	
Fireſh.	Cygnet	C. Shelly		30	
	Dartmouth	C. Leg		55	
	Eliz. and Sarah	C. Dover		25	
	Guardland	C. Jenifer		50	
	Richard and John	C. Will. Wright		20	

Rates.	*Ships.*	*Commanders.*	*Lieutenants.*	*Men.*	*Station.*
Fireſh.	Supply	C. Croſs		20	
	Guernſey	C. Arthur		50	
	Pearl	C. Coale		50	
	Richmond	C. Fairborne		50	
	Swan	C. Johnſon		50	
	Sophia	C. Myngs		27	
	Speedwell	C. Powſen		30	*Channel.*
	Roſe Salley Prize			37	
	St Paul	C. Boteler		50	
	Charles and Henry	C. Stone		25	
	Roebuck	C. Pooley		16	
	Unity	C. Wyvel		25	
	Charles	C. Potter		36	
	Half Moon	C. Munden		35	
	Young Spragg	C. Wiſeman		20	*Portſmouth* Guard.
Yatch.	Merlin	C. Wylde		30	*Portſmouth* Guard.
Fireſh.	Eagle	C. Wilford		45	*Sheerneſs.* Guard.
Fireſh.	Sampſon	C. Harris		50	*Sheerneſs.* Guard.
Yatch.	Navy	C. Cotton		20	*Guernſey.*
Ketch.	King-fiſher	C. Swaine		15	*Jerſey.*
Yatch.	Monmouth	C. W. Wright		20	*Ireland.*
4	Dragon	C. Killegrew	Bokenham, Sherburne	185	
4	Sedgemore	C. Loyd	Buckley, Hawkins	240	*Salley.*
5	Saphire	C. Toſier	Brisbane	115	
Hulk.	Leopard			33	
4	Aſſiſtance	C. Law. Wright	Chapman	200	*Jamaica.*
6	Drake	C. Spragg		65	*Jamaica.*
5	Roſe	C. George	Condon	105	*New Engl.*
Ketch.	Deptford	C. Berry		40	*Virginia.*
6	Dunbarton	C. Roe		70	*Virginia.*
3	Montague	Ld. Berkley, *R. Adm.*	Conway, Every	355	
3	Rupert	*Sir* William Jennens	Staggins, Day	400	*Channel.*

SHIPS

SHIPS going out.

Rates.	Ships.	Commanders.	Lieutenants.	Men.
3	Edgar	Ld. Berkley, *R. Adm.*	Every	460
3	Dunkirk			340
3	Warſpight	*Sir* William Jennens		420
3	Hampton Court	C. Prieſtman	Buck	460
3	Kent	*Sir* Francis Wheeler	Uſher	460
4	Tiger Prize	C. Smith	Fouls	230
4	Sweepſtates			80
	Mermaid	C. Leg		50
	Thomas and Eliz.			40
	Owners Love			40
	Cadiz Merchant			45

	In all	At Sea	Going out	Total	Men
Rates 3		10	5	15	6080
4		29	2	31	7015
5		2		2	220
6		4		4	295
Fireſhips		22	4	26	965
Bomber		1		1	75
Hulk		1		1	33
Ketches		3		3	95
Yatches		9		9	260
		81	11	92	15038

This Liſt makes a great Noiſe, 92 Men of War, whereas not above half of them were of ſuch Force as to deſerve that Name, or a Place in ſuch a Liſt. It will appear by the foregoing Liſts, that the Commanders of many of them were Gentlemen, from whom King *James* cou'd expect nothing leſs than their Sacrificing every thing to the *Engliſh* Religion and Liberties, which he had infring'd; and had his Fleet been more numerous, the Cauſe of Popery and Slavery had not been the ſtronger for it.

Some of thoſe Commanders bravely dy'd ſince in the Service of their Country againſt *France*; and others are ſtill gloriouſly ſerving her. It will appear by this Liſt alſo, that the Clamour of Officers not riſing gradually in the Fleet, is groundleſs: For we ſhall ſee ſeveral who were Lieutenants at the *Revolution*, that have been, and are Flag Officers ſince.

Having taken from Mr. *Pepys* an Account of the Fleet, as it was in Service, we ſhould add ſuch Ships as were not; but wanting room, the following Abſtract muſt ſerve, inſtead of the particular Names of Ships and Commanders; the latter of which he himſelf has not communicated to the World.

An Abſtract of the Liſt and State of the Royal Navy of England, *upon the* 18th *Day of* December 1688, *with the Force of the Whole.*

Ships and Veſſels.	At Sea, or going forth	In Harbours, to be Repair'd	Reparing	Repair'd	Newly come in from Sea	Total	Men	Guns
Rates 1	00	05	3	1	0	09	6705	878
2	00	09	1	1	0	11	7010	974
3	15	22	1	1	0	39	16545	2640
4	31	03	3	0	4	41	9480	1908
5	02	00	0	0	0	02	260	60
6	04	02	0	0	0	06	420	90
Bombers	01	02	0	0	0	03	120	33
Fireſhips	26	00	0	0	0	26	905	218
Hoys	00	06	0	0	0	06	22	
Hulks	01	07	0	0	0	08	50	
Ketches	03	00	0	0	0	03	115	24
Smacks	00	55	0	0	0	05	18	
Yatchs	09	55	0	0	0	14	353	104
	92	66	8	3	4	173	42003	6930

Mr. *Pepys* goes no further with his Memoirs, than the 18*th* of *Decemner* 1688; at which Time King *James* withdrew, and Mr. *Burchet*, the preſent Secretary of the Admiralty, begins his Memoirs from about the ſame Time, and ends them with the Peace of *Ryſwick*. The Deſign of this Eſſay being rather to ſhew the paſt and preſent Strength of the Navy, than how it came to be

be greater or ſmaller, it will not be neceſſary to enter far into the Hiſtory; nor take notice of Things which do not immediately ſerve the preſent Purpoſe.

At the Revolution Mr. *Burchet* was employ'd under the Lord *Dartmouth*, and he tells us, the Flag-Officers and Commanders had their Cabals aboard that Fleet; inſomuch, that if they had come up with the *Dutch*, he queſtions if any conſiderable Obſtructions would have been given his Highneſs the Prince of *Orange*; only the Lord *Dartmouth*, Sir *William Jennings*, and ſome others, he believes would have had ſo much Regard to their Commiſſions, as to have done their Utmoſt. 'Tis certain, that the Prince of *Orange*'s Friends did not expect much Aſſiſtance from that Lord and his Confidents, who were known not to be in the Intereſt of that Cauſe which ſecured the Church of *England*, our Liberties and Properties, and all that was dear and valuable to us. After King *James* was withdrawn, the Fleet quietly came into the Poſſeſſion of the Prince of *Orange*, who at the Requeſt of the People of *England*, had undertaken the Adminiſtration of the Government in the Abſence of King *James*, who had abdicated it: But as unanimous as the Army and Fleet were, things cou'd not immediately be put into ſuch Order, as to check the *French* Power at Sea, where they appear'd more early than we could, at the beginning of the War, and with a greater Power than *England* could get together in Time. The *French* King had a War in his View a long Time, but not ſuch a War as he met with. When he drew his Sword next, 'twas with a Deſign to give the laſt Stroke to the Liberties of *Europe*; and knowing the *Dutch* were at that Time the only Barrier of thoſe Liberties, he had for above 30 Years been encreaſing his Naval Force to deſtroy that of the States-General, expecting the King of *England* would rather join with, than oppoſe him in ſuch a Deſign; as he probably would have done, if the Prince of *Orange* had not come, and have at laſt got nothing by it but the Priviledge of being laſt deſtroy'd. With theſe Views *Lewis* XIV. encourag'd every thing that tended to Navigation, becauſe that increas'd his Maritime Power: And 'tis no Wonder. The *Engliſh*, who had for thirty Years been lull'd aſleep by a falſe and fatal Peace, who in all Period had had no War but almoſt with themſelves: For what publick Intereſt has *England* ſeperate from the *Dutch*? And in that War they generally acted againſt their Opinions and Inclination. 'Tis no Wonder, I ſay, That the *French*, who had been all that while preparing to be Maſters of both Sea and Land, ſhould in the Beginning of the laſt War, give them a

few

few Checks at Sea, as they did at *Bantry-Bay* and *Beachy*, when the Fleet was under the Command of the Earl of *Torrington*. We were not then well ſettled; and it may be ſaid, for want of Practice, our Hands were a little out; but when our Affairs came to be better ſettled, and that both We and the *Dutch* took the neceſſary and timely Care to be early and ſtrong at Sea, the *French* durſt not above once afterwards look us in the Face during the whole War; and even that once was, when the Court of *France* thought themſelves ſecure of deſtroying two Squadrons of our Ships on their own Coaſt, commanded by Sir *Ralph Delaval*, and Rear-Admiral *Carter*, before the bigger Ships cou'd poſſibly join them. 'Twas that which occaſion'd the *French* King's giving poſitive Orders to Monſieur *Tourville*, his Admiral, to fight the *Engliſh* and *Dutch*; and it was thoſe Orders which oblig'd him to engage, tho' he found our whole Force to be join'd, and were entirely defeated with the Loſs of 16 of their beſt Men of War in the Fight and Purſuit. But from that very Time, as they did the preceding, they made it their Buſineſs to avoid meeting the *Engliſh* and *Dutch* at Sea, tho' the Year before this Engagement they had all their Naval Strength in a Body: And finding 'twas in vain for them to pretend to give Battle to us any more at Sea, they ſuffer'd themſelves to be inſulted, their Towns to be bombarded, and their Coaſts, even in the *Mediterranean*, expos'd to an Invaſion from us; turning the Maritime War to Pyracy, skulking in Privateers, and robbing our defenceleſs Merchants. In the mean while *England* and *Holland* were at a vaſt yearly Charge to equip great Fleets; whereas the *French*, only with their cruiſing Frigates and Privateers, made their utmoſt Effort in intercepting our Trade, which was almoſt as great and rich as in Time of Peace, and was a ſufficient Temptation to the *French* Merchants, and others to ſet out Rovers to rob the *Engliſh* and *Dutch*; their own Commerce being ſo little, eſpecially in theſe Parts of the World, that it was ſcarce worth looking after. The *French* Privateering was at the Charge of private Perſons, who found it turn to very good Account; and their King ſav'd a great deal of Money, which the better enabled him to diſtreſs the Allies by Land. 'Twas ſtrange to ſee what a Maritime Power he had acquir'd, conſidering how ſmall his Father and Grand-father's Strength was at Sea when the *French* began to encreaſe their Navy. The Parliament of *England* in the Reign of King *Charles* II. gave Money to build 30 Capital Ships, which were ſuffered to rot in the Harbours, as is to be ſeen in Mr. *Pepys*'s Memoirs. However the *Engliſh* Fleet ever was more than a Match for the

French

French when 'twas in good Order and under good Management. It has been ſhewn what was the State of it when King *James* withdrew to *France*; the whole Fleet then conſiſting of *1ſt*, *2d*, *3d*, *4th*, *5th* and *6th* Rates, at Sea and in Harbours, repair'd and unrepair'd, made but 108 Sail, beſides Fireſhips, *&c.* whereas almoſt every Year during the laſt War, the Government was oblig'd to ſet forth,

Rates	Number
1	6
2	8
3	36
4	51
5	37
6	22
In all	160 Ships of War; beſides

Fire-ſhips, Hoſpitalſh-ips, Yatchs, Sloops, Bomb-Veſſels, Store-ſhips, Brigantines, and all other ſmall Craft for the Conveniency and Service of the Grand Fleet.

'Tis not to be ſuppoſed, this vaſt Number was employ'd always in a Body; many of them were on Services abroad, others as Convoys to particular Trade, others as Cruizers, and the reſt in Fleets at home or in the Streights. The greateſt Number of Ships and Veſſels in Pay in one Year (excluſive of Tenders and Tranſports) during the whole Time of the laſt War, was 229; and, according to their reſpective Complements of Men, they requir'd about 45900; and had mounted in them 8396 Guns; of which Number 6360 were on board Ships from the firſt to the fourth Rate incluſive; which is almoſt as much as the Number of all the Guns aboard all the Ships in being in Mr. *Pepys*'s Time; notwithſtanding our yearly Loſſes at Sea; and, as Mr. *Burchet* ſays in his Preface, "It muſt be underſtood, that thoſe employ'd in the "*Weſt-Indies* are reckon'd to the middle Number of Men and Guns "allow'd them; otherwiſe both the one and the other would "have amounted to conſiderably more than it's now calculated at." As for the Body of the *Engliſh* Fleet, it ſeldom or ne ver exceeded 52 Ships of the firſt, ſecond, third and fourth Rates, (and of the latter there were ſeldom many) which with the *Dutch* Quota, commonly about 5 to 8, made upwards of 80, proper for the Line of Battel. Tho' the whole Number of Men were, or ought to have been employ'd, at leaſt in the Summer Months, yet it often fell

ſhort:

ſhort: For as they were in the Winter Seaſon very conſiderably reduced by the laying up moſt of the firſt and ſecond Rates; ſo by the Fleet's not being ſo well mann'd as to be in a condition to go to Sea before the latter end of *April* or the beginning of *May*, it cannot be reckoned that the whole Number of Men in Sea Pay, one Month with another, ever exceeded 40000 the Year round, if it ſwell'd ſo high. *France* had one Year, at leaſt of the laſt War, in a Body, 8 Ships of the Line-of-Battel; and it was as much as *England* and *Holland* cou'd do to equip a Fleet equal to them, in good Time. But then it muſt be obſerved, that the great Number of Men which our Trade requir'd, was no little Hindrance to the Manning the Navy, ſo as to enable it to be early at Sea. The *French* King has many Advantages towards Manning his Fleet, that we have not: For as his Trade, compair'd with ours, is very little to draw away his Seamen from the Publick Service; ſo by his abſolute Power he obliges all to appear on Pain of Death, or the Gallies; whereas the *Engliſh* Seamen have too often, when the Trade is ſtopt, hid themſelves, in hopes of being more advantagiouſly employed by the Merchants, when it was open. Again, The *French* King compells all his Privateers, which are very numerous, to take a conſiderable Part of their Complement in Landmen, to return into Port upon occaſion, and deliver up all of them, both Seamen and Landmen to his Men of War. Now to this his Manning his Ships with at leaſt one third part Soldiers, by which means he provides himſelf with Men ſufficient to make up his Want of Navigation, it has been mention'd what Endeavours were us'd the laſt War among us to imitate him in the Buſineſs of the Soldiers aboard his Men of War, and that they did not anſwer Expectation, for want of being put at firſt on a good Foot. Theſe Marines have been reviv'd in this War, and contiuned with more Succeſs: For they are not only of great Uſe in the Fleet; but alſo very ſerviceable in any Attempts on Shore. But however, theſe 6 Regiments of Marines are not a Ballance for the many Advantages the *French* have over us in Manning their Fleet. Our Way, as Mr. *Burchet* reports in his Preface, is;

1ſt, By Proclaiming Bounty-Money to all Seamen and able Body'd Landmen; which prevails with ſome to come in early; but there being generally 2 Months Time allow'd, others conceal themſelves till 'tis near expir'd, to the great Hindrance of the Timely Equipment of the Fleet.

2dly, By

2dly, By Impreſſing Seamen by Officers and Preſs-Gangs, which is uncertain and expenſive; ſome of them get Men, others few or none, after having been employ'd a conſiderable Time to do it. The Magiſtrates do not enough exert themſelves in the Sea-Port Towns and elſewhere, in forcing backward Seamen out of their lurking Holes. When the Publick Service wants them, the beſt Way to engage them in it is, to Pay them, Reward them, and Provide for them well when they are enter'd, which has not been obſerv'd ſo much as it hath been wiſh'd. One of the greateſt Grievances of the Seamen is, their not being well look'd after when ſick or wounded, both at Sea and aſhore, occaſion'd thro' the Ignorance of the Surgeons, or at leaſt their Mates, and other Cauſes too many to be inſerted here, but mention'd at large in the Preface before-mention'd.

The Captains and Officers have been ſometimes Blame-worthy for ill treating the Seamen, both in Correction and Rewards: Seamen are alſo diſcourag'd by their not being diſcharg'd from one Ship to another, when Offers are made to advance them to Employs of Mates, Midſhipmen, and the like. Care ſhould be eſpecially taken to ſupply them with Proviſion, and this ought to extend as well to Quantity as Quality: For as nothing does more diſcourage a Sailor than his being wrong'd in the firſt; ſo nothing ſubjects them more to Diſeaſes, as a Defect in the latter. The Affair of Victualling was formerly perform'd by Contractors; but for ſeveral Years paſt it has been under the Care of Commiſſioners; who have their proper Agents in all the Out-Ports of *England*, and their Correſpondents abroad. Salt-Meat is thought prejudicial to the *Engliſh* Sailors, who live moſtly thereupon; whereas the *Dutch*, who feed oftner on other Species of Proviſions, are not ſo much expos'd to Sickneſs as ours. And 'twas obſervable, that during the whole Courſe of the laſt War, they carry'd ſcarce one Hoſpital-Ship with the Groſs of their Fleet; whereas we have had ſometimes three, four or more, and theſe fill'd but too often. What follows is taken *verbatim* from Mr. *Burchett*.

"I have experienc'd during my Service in the Fleet, that by a long
" Cruize in the *Soundings*, the Men fell ſick in great Numbers; and
" that the Scurvy or Fevers were the moſt reigning Diſtempers: In-
" ſomuch, that it may be truly ſaid, many of 'em dyed for want of
" a fitting Proportion of freſh Proviſions, before they could reach
" any Port to be taken Care of: And even thoſe whoſe Diſtem-

" pers did not carry them off, e'er they could be put aſhore, were " for Want of Neceſſaries, reduced to ſo weak a Condition, that " it requir'd a longer Time for their Recovery, than the Service " would admit the Fleet to ſtay for them: Wherefore if Care " could be taken thus to refreſh the Men, when at Sea, the Go- " vernment (which allows them in Wages, and is put to other " Charges for a Month's Time, when ſent Sick aſhore, if they do " not ſooner recover) would be in a great Meaſure eaſed as to " that Expence, and the Fleet be conſtantly in a much better " Condition for Service: But if it ſhall be thought too great a " Charge to take up Veſſels on Purpoſe to attend the Fleet the " whole *Campaign*; yet it ſeems not unreaſonable, that when the " Fleet ſhall have been at Sea a conſiderable Time, there ſhould " be freſh Proviſions ſent out to them; and when diſtributed to " each Ship, according as there ſhall be occaſion, thoſe Veſ- " ſels may be diſcharged the Service; nay, a great Part of this " neceſſary Expence might be ſav'd, by ſending in the Tenders " which uſually accompany the Fleet, and when the Sailors are " thus ſupplyed with Freſh, it goes in lieu of Salt-Meats, *&c.* which will lengthen out the Stores, of which there has been Oc- caſion more than once in the late Wars.

The Reader will not be diſpleaſed to compare this with the Account of the Management of the *French*, with Reſpect to their ſick and wounded, and their Sailor's Diet; whereby it appears, that tho' our Enemies have naturally no more Tenderneſs, Huma- nity, nor good Senſe, than we have; yet there is a certain Vigour in their Adminiſtration which animates every part of it, and the Publick in a bad Cauſe, is, or has been better ſerv'd than elſe- where in a good One.

There was as general a Complaint of our Loſſes at Sea in the laſt War as has been at any Time in this, and perhaps the Cauſes of it were much the ſame. We magnify'd our own Sufferings, and di- miniſh'd thoſe of our Enemies; whereas if we compare their Loſſes with ours, out of the Royal Fleets we ſhall find the Ballance is by much on our ſide. 'Tis true, our Merchants had the worſe of the *French* Merchants; tho' it may be queſtion'd, whether more the worſe than their Trade was better: And beſides, if we conſi- der what a length of Coaſt full of Ports the *French* have upon us; what a prodigious Number of Ships paſs to and from the Channel belonging to *England*, is it a matter of Aſtoniſhment that many of them ſhould be ſurpriz'd? When whole Fleets are taken, Convoys and all, after ſufficient Time given to prepare for their Security, as well as the Enemy to provide for their Caption.

That

That indeed creates more Wonder; and yet even that in a long War, may happen thro' unforeſeen Accidents which were impoſſible to be prevented. But 'tis a hard matter for a Loſer to be ſatisfy'd with his Loſs, and for a Merchant who has loſt his Ship, to be convinc'd by Arguments. The Ship's loſt, the Managers are here; and ſince the former cannot be recovered, the latter muſt comfort him a little with Scandal. This will always be, while Intereſt prevails above Reaſon; and when it will not prevail, let thoſe ſay who know more of Futurity than we do. If it ſhould be ſaid that the *French* loſt even more King's Ships than we did laſt War, few would believe it, till they had ſeen the following Compariſon of their Loſſes and ours.

'*An Account of the Ships taken from us by the* French *during the War, and what were burnt or taken from them.*

ENGLISH.

Number of Ships.		*Guns each.*	*Total.*
1	of	70	70
1	of	54	54
2	of	48	96
1	of	46	46
3	of	42	126
3	of	36	108
6	of	32	192
2	of	30	60
4	of	24	96
2	of	18	36
2	of	16	32
2	of	12	24
11	of	10	110
5	of	8	40
1	of	6	6
4	of	4	16
Total 50			1112

FRENCH.

Number of	*Ships*	*Guns each.*	*Total.*
2	of	104	208
1	of	90	90
2	of	80	160
3	of	76	228
1	of	74	74
1	of	70	70
1	of	68	68
2	of	60	120
4	of	56	224
1	of	50	50
1	of	48	48
1	of	42	42
1	of	40	40
5	of	32	160
5	of	30	150
5	of	28	140
1	of	26	26
3	of	24	72
3	of	20	60
6	of	18	108
1	of	16	16
2	of	12	24
6	of	10	60
1	of	6	6
Total	59		2244

Number of Guns on board the *French* Ships more than in the *Engliſh* 1132, above as many more, and moſt of them much ſuperior in their Quality; by which we perceive what Sufferers the *French* were at Sea during the laſt War. And in this, at the Beginning of it, they loſt 17 Men of War in the Action at *Vigo* only; by which their Naval Strength has been ſo impair'd, that they never durſt, nor perhaps never will, give us Battel in the Channel: What they may do by Surprize upon a Squadron in the *Mediterranean* we cannot ſay; but we have no more to fear from a Grand Fleet of *France* in the *Britiſh* Seas; at leaſt if we continue to encreaſe our Maritime Power: For notwithſtanding our

our Losses, we had as many Ships of War only, 5 Years ago, as there were Ships, Fire-Ships, Bomb-Vessels, and Ships of all sorts in Mr. *Pepys*'s Abstract; upon which he seems to lay the Stress of the Perfection of the Administration of the Navy Affairs, and the Greatness of our Strength at Sea, in the Reign of King *James* II. And we had then in all above 100 Ships more in the Navy, than when King *James* deserted the Kingdom, though we had had a Bloody War of near 10 Years in length to destroy our Fleets, and waste the Publick Treasure. We have no Reason to believe, but that the Fleet is as numerous now as it was 5 Years since; our Encrease having been greater than our Decrease: And yet two and three Ships of 70 Guns and upwards, have been taken at a Time; some by Surprize, others by the Misfortune, for who dares call it the Cowardice or Treachery of the Commanders? That the Reader may see what the Navy consisted of in the Beginning of her Majesty's Reign, the following Abstract is communicated to him.

An

An Account of the Numbers and Rates of Ships and Veſſels of which the Royal Navy was compos'd Anno. 1703.

Rate.	*Number.*	*Numb. of Men for their higheſt Compl.*
1	7	5308
2	14	8834
3	47	21147
4	61	15702
5	30	4130
6	14	1480
Fire-Ships	11	495
Bomb-Veſſels	13	450
Yatchs	15	336
Advice-Boats	3	115
Brigantines	5	175
Sloops	10	335
Pink	1	20
Ketch	1	50
Store-Ships	3	123
Hulks	12	225
Hoys	16	75
Smacks	2	12
Hir'd Store-Ships	3	132
Hoſpital-Ships	6	335
	274	52479

Of all which Number there were but 1 Firſt, 6 Second, 4 Third, and one Fifth, that were not in a Condition for Service.

In Time of Peace, the Ships are laid up in the Principal Yards, as *Chatham*, *Portſmouth*, *Plymouth*, *Woolwich*, *Deptford* and *Sheerneſs*; but the biggeſt and the greateſt Number of the biggeſt Ships are always lodged at *Chatham*, where they are conſtantly repair'd; but their Bodies are more thoroughly look'd into in Time of Peace, than is poſſible to do when War requires their Service. At theſe Docks are Magazines of Naval Stores, which are generally ſupply'd from Northern Crowns with Hemp, Pitch, Tar, Roſin, *&c.* But as for Maſts, thoſe particularly of the largeſt

largeſt Size, they are brought from *New-England*, as it is to be hop'd the other Ship-Stores will be in a little Time. There is a Store-Keeper at each Yard, to receive and give out Stores; a Maſter-Attendant, whoſe Office is to proportion the Rigging, to put it over-head, lay out Mooring, and remove Ships from one Place to another, with ſeveral other Services; a Maſter-Shipwright, whoſe Poſt is to look after the Building and Repairing the Ships; a Clerk of the Cheque, employ'd in Muſtering the Workmen in the Yards, and the Ships Companies within their Reach, and Chequing them out of Wages when abſent; he alſo, with the Clerk of the Survey, inſpects into all Stores deliver'd, to ſee that they anſwer the Contract, both in Quantity and Quality; over theſe is one of the Principal Officers and Commiſſioners of the Navy always reſident, to inſect into the Affairs of the Chief Docks; another aſſiſts at the Board in Town, and is charg'd with examining and adjuſting the Store-Keeper's Accounts; as another does thoſe of the Treaſurer of the Navy, and a third the Account of Victualling. Beſides the Officers before-mention'd in the Yards, there are in each an Aſſiſtant to the Maſter-Builder, a Maſter-Caulker, a Maſter-Carpenter, a Maſter-Joyner, a Maſter-Boat-builder, a Maſter-Maſt-maker, Foremen both aſhore and afloat, Boatſwain of the Yard, a Maſter-Sail-maker, *&c.* who have each of them their particular Duties aſſign'd. 'Tis eaſy to imagine, that it muſt be of the greateſt Conſequence, that the Ship's Hulls be carefully look'd into; for it has been experienc'd, that when Ships have had much Time and Money ſpent on them, they have been oblig'd by reaſon of Leaks or other Defects, to return very ſuddenly into Port again; which Misfortune chiefly happens in 'Time of greateſt Action; when the Service cannot admit of ſearching, and thoroughly repairing the Bottoms of the Ships, as may be done in peaceable Times. Frequent Loſs of Sails, eſpecially in the Winter Seaſon, has been a great Obſtruction to Cruizing Ships; which Sails being made of Canvas work'd up in *England*, come far ſhort of what we have from *Holland*, as to Strength and Goodneſs. 'Tis true, our own Canvas is lately much improv'd; and in all Caſes where the *Engliſh* Manufacture will ſerve, it is to be preferr'd to Foreign. Whoever will look into Mr. *Burchet*'s before-mention'd Preface, will perceive the Author of this Eſſay to follow him cloſely; but it has been where they agreed in Sentiments; and Reaſon was on Mr. *Burchet*'s Side: For with whatever View that Gentleman might compoſe his Memoirs, this Eſſay was only deſign'd to give the Reader an Inſight into ſuch Things as he cannot ſo eaſily elſewhere inform himſelf of. The

Cloſe

Cloſe of the ſo often cited Preface, has ſome Things in it which are very well obſerv'd, and indeed from that Gentleman's long Experience in the Affairs of the Navy, it cannot be but that his Obſervations are good: He tells us, *As the former War was conſtantly attended with the vaſt Expence of great Fleets; ſo I have Reaſon to doubt this will. We then thought it neceſſary for the Safety of our Country and Trade, becauſe 'twas uncertain what Strength the Enemy would ſet forth:* France *knowing we would do this, did frequently and induſtriouſly amuſe us with their pretended great Preparations; and yet during two Thirds of the whole War, they did not appear at Sea with more than Squadrons, while our great Fleets encountring the Winds and Waves, did not only very much impair their Hulls, but great Loſs of Maſts, Yards, Sails and grand Tackle was occaſion'd thereby. For eaſing the Publick Charge, methinks the great Ships ſhould be as early paid off each Year as 'tis poſſible, if it ſhall be found neceſſary to fit them out at all; but in this we muſt be govern'd by the beſt Accounts that can be procur'd of the Enemies, real Preparations and Deſigns,* &c. That is, if 'tis certainly known, that they are making their utmoſt Effort in their Naval Preparations, and equipping their great Ships; in ſuch Caſe we muſt arm all, or moſt part of our Capital Ships; eſpecially if it happens, as probably it always will, in a War with *France*, that our Fourth Rates are taken up in other Services, and we have a large Squadron in the *Weſt-Indies:* Tho' if we had as many Third and Fourth Rates ready as the Enemy to encounter them in theſe Seas, if they equip their Firſt and Second, 'twill be a very great Imprudence in us not to do the ſame; if the *French* do not arm their great Ships, we ſhall be at great Expence in equipping ours, which after all that Expence, and no Service, may return to Port worſe than they went out. The chief thing is to ſet forth our Third Rates, well'd Mann'd, and conſtantly employ 'em in Squadrons, or otherwiſe, for the Security of our Coaſts and Trade. The equipping the great Ships occaſions the Want of Men, both in them and thoſe that are ſmaller, they take up ſo many Hands; and as to the *French* putting forth their Capital Ships upon notice of ours being in the Harbours, that is not to be done ſo ſoon, nor is our Intelligence ſo much worſe than theirs, but that we may hear of ſuch an Armament Time enough to call in ſome of our ſmaller Ships, and to preſs Men for thoſe Capital Ships that may be thought proper to be equipp'd.

We have already hinted at the Clamour of ſome Men againſt the Admiralty, on account of the Captures, and mention'd the Difficulties that the Managers of our Maritime Affairs meet with

in

in finding them, and ſhall not omit obſerving here what Mr. *Burchet* takes Notice of in the Cloſe of his Preface, that the Merchant Men have very often contributed to their own Loſs by their Temerity. To uſe his own Words, *I ſhall only give one of the many Inſtances of this kind, and that in relation to a great Fleet of Merchant Ships which were coming from* Virginia. *Theſe Ships kept with their Convoy till they arriv'd in the* Soundings, *and then a conſiderable Number of them belonging to* Briſtol *taking the Opportunity of the Night, thought fit to ſeparate, and were, I think, every one of them ſurpriz'd by the Enemy before they cou'd reach their Port; whereas all the reſt came ſafe home. This occaſioned a great Clamour, and the Fact being thoroughly examin'd into by a Committee of the Houſe of Commons, it was plainly prov'd that the Ships were loſt by the Careleſsneſs, I will not ſay Villany of their Maſters. Now if ſome Penalty could be laid by Act of Parliament on the Maſters of Ships and Veſſels who ſhall thus leave their Convoys, and thereby not only expoſe their Owners to Ruin, and prejudice her Majeſty in her Revenue, but ſubject themſelves and Country-men to Impriſonment and Hardſhips,* &c. *'tis hop'd it may in a very great Meaſure prevent this Evil for the future.*

Much has been ſaid of the Vigour of the *French* Councils in the Adminiſtration of their Naval Affairs, by Perſons who have not div'd far into that Matter; but it would be no hard Task to prove that, from the Opportunities they have had, they might have drawn more Advantage to themſelves at Sea than they have done, if their Experience at Sea had been as conſummate as at Land. The *French* King has, 'tis true, in all his Actions, ſhew'd he is of the Opinion that the World is as eaſy to be impos'd upon as a private Bubble; and that Shew and Noiſe will do the Buſineſs of a State as well as Reaſon and Subſtance. He has always boaſted eternally of his Conqueſts, and till lately laugh'd at his Diſgraces; and looking upon himſelf as deſtin'd to the Univerſal Monarchy, defy'd every thing that ſeem'd to give him a Check in the Purſuit of it. He is to be admir'd thus far for his Politicks in this, becauſe they have ſucceeded in a great meaſure; and his buſtling both at Land and Sea, has kept up the Spirit of the Factions he had engag'd in his Intereſts in all Parts of *Europe*. When Admiral *Ruſſel* deſtroy'd 16 of his beſt Ships in *La Hogue* Fight, he built 15 or 16 Ships in a Year and half, moſt of them Capital ones; And they were not only call'd by the ſame Names, but were of the very ſame Dimenſion with thoſe burnt at *Cherbrook* and *La Hogue:* Which tho', as 'tis ſaid in that often cited Preface to Mr. *Burchet*'s Memoirs, probably the *French* King might cauſe to

be done, as much to amuſe the next Age, by rendring it almoſt beyond Credit, that ſuch a Loſs could happen to him and be ſo ſoon repair'd, as for any other ſingle Reaſon; yet it ought to be a Spur to us to be as induſtrious in our Naval Concerns; that we whoſe Intereſt it is to be Maſters of the Sea, both for our Wealth and Safety, ſhould never ſuffer our ſelves to be outdone by the Vain-Glory of our Neighbours in what does not concern them in any ſuch Degree. 'Tis to be hop'd ſuch Meaſures will be taken hereafter, that while our Armies are Victorious at Land, our Navies will triumph on the Ocean, and ſecure to the Crown of *Great Britain*, that Dominion at Sea which has been prov'd to be an undoubted Right, and which none ought to conteſt with Impunity.

Several Laws relating to Sea Affairs, extracted from the Statutes to that Purpoſe.

IN the Year 1661, the Parliament paſt an Act, entituled, *An Act for the eſtabliſhing Articles for the regulating and better Government of his Majeſty's Navies, Ships of War and Forces at Sea*; which, in the Year 1703, was reprinted by Order of the Principal Officers and Commiſſioners of her Majeſty's Navy.

I. All Commanders, Captains, and other Officers at Sea, are requir'd to cauſe the Publick Worſhip of Almighty God, according to the Liturgy of the Church of *England*, to be ſolemnly perform'd in their Reſpective Ships; and Prayers and Preachings by their Reſpective Chaplains in Holy Orders, be perform'd diligently; and the Lord's Day obſerv'd as the Law enjoins.

II. Unlawful and raſh Oaths, Curſings, Execrations, Drunkenneſs, Uncleanneſs, or other Scandalous Actions in Derogation of God's Honour, and Corruption of good Manners, to be puniſh'd by Fine and Impriſonment, or otherwiſe by a Court Martial.

III. No Officer, Mariner, Soldier, or other Perſon in the Fleet, to hold Intelligence with any one in Enmity to, or Rebellion againſt the King, his Heirs and Succeſſors, without Direction or Leave from his Majeſty, the Lord High-Admiral, Vice-Admiral, or Commander in Chief of any Squadron, on Pain of Death.

IV. Any

IV. Any Letter or Meſſage from the King's Enemies, convey'd to any Officer, Mariner, or Soldier, or other in the Fleet, muſt within 12 Hours, having Opportunity ſo to do, be made known to the Superior Commander; and if the Superior Officer or Mariner being acquainted therewith, or receiving himſelf a Letter or Meſſage from any ſuch Enemy or Rebel, does not reveal it in convenient Time to the Admiral or Commander of the Squadron, ſuch Perſon ſhall be puniſh'd with Death or otherwiſe, as the Court Martial ſhall think fit.

V. No Perſon in the Fleet to relieve an Enemy or Rebel in Time of War, with Money, Victuals, Powder, Shot, Arms, Ammunition, or any other Supplies, directly or indirectly, on Pain of Death, or what other Puniſhment the Court Martial ſhall inflict.

VI. All Papers, Charter-Parties, Bills of Lading, Paſsports, and other Writings that ſhall be found aboard any Ship which be ſeized as Prize, ſhall be duly preſerv'd, and the very Originals ſent up entirely to the Court of Admiralty, or ſuch other Commiſſioners as ſhall be appointed for that purpoſe, to be viewed, made uſe of, and proceeded upon according to Law, on Pain of forfeiting all the Shares of the Takers; and to be further puniſh'd by the Court Martial, according to the Quality of their Offence.

VII. Nothing to be taken out of a Prize-Ship till condemn'd by the Admiralty; an entire Account to be given of the whole without Fraud, on Pain of ſuch Puniſhment as the Court Martial, or Admiralty Court ſhall inflict; except every thing above the Gun-Deck, but Arms, Ammunition, Tackle, Furniture or Stores, which are not to be touch'd.

This Article is evacuated by a late Act of Parliament, as will be ſeen hereafter.

VIII. None of the Ship's Furniture, Powder, Arms, or Ammunition to be embezzl'd on Pain of Death, or other Puniſhment, according to the Quality of the Offence, to be inflicted by the Court Martial.

IX. No Captain, Maſter, or Mariner, being Foreigners themſelves, and of a Foreign Ship taken as Prize, that made no Re-

ſiſtance, ſhall be ſtripp'd, pillag'd, or ill us'd; the Offenders in this Caſe to pay double Damages; the ſaid Foreign Ships and all the Goods to be preſerv'd entire, to receive Judgment in the Court of Admiralty, according to Right and Juſtice.

X. Every Captain or Commander, who upon Sight of an Enemy, Pirate, or Rebel, or Likelyhood of Engagment, ſhall not put all things in his Ship in a Poſture for it, and in his own Perſon encourage the Inferior Officers and Common Men to do their Duty, ſhall be caſhier'd; and if he or they yield to an Enemy, *&c.* or cry for Quarter, he or they ſhall ſuffer Death, or ſuch other Puniſhment as the Crime deſerves.

XI. Every Commander, Seaman, or Soldier, aboard a Ship or Veſſel of War, ſhall duly obey the the Admiral or Superior Commander of a Squadron, as well for fighting againſt an Enemy, Pirate, or Rebel, as all other Commands, on Pain of Death, or other Puniſhment, according to the Nature of his Crime.

XII. Any Captain, or other Officer, Mariner or Soldier, that in Time of Battel ſhall withdraw, and not come into the Fight to engage and do his utmoſt to deſtroy and endamage the Enemy, *&c.* and aſſiſt his Majeſty's Ships, ſhall be try'd for his Cowardiſe and Diſaffection, and ſuffer Death, or be otherwiſe puniſh'd in the Breaſt of the Court Martial.

XIII. All Captains, Officers, and Seamen of Convoys, ſhall diligently attend upon their Charge, without Delay, according to their Inſtructions; and whoever ſhall not faithfully perform the ſame, by defending the Ships and Goods in their Convoy, without either diverting to other Ports or Occaſions, or refuſing or neglecting to fight in their Defence if attack'd, or run away cowardly, and expoſe thoſe in their Convoy to Hazzard, or ſhall demand Money or Reward from any Merchant or Maſter for Convoying any Ships or Veſſels belonging to his Majeſty's Subjects, ſhall make Reparation of the Damage to the Merchant, Owners, and others, as the Admiralty Court ſhall adjudge; and be puniſh'd Criminally by Death or otherwiſe, as the Offence deſerves, and the Court Martial ſhall think fit.

XIV. All Perſons belonging to the Fleet, that ſhall thro' Cowardiſe, Negligence or Diſaffection, forbear to purſue any Enemy, Pirate, or Rebel, beating or flying, or ſhall not aſſiſt a known Friend

Friend to the utmoſt of their Power, ſhall ſuffer Death, or be puniſh'd otherwiſe, in the Breaſt of the Court Martial.

XV. No Man in Time of Service or Action, ſhall, when commanded, ſtop or put backward, or diſcourage the ſaid Service and Action, by Pretence of Arrears of Wages, or any Pretence of Wages, on Pain of Death.

XVI. All Sea Captains, Officers and Seamen, deſerting to the Enemy, *&c.* betraying their Truſt, or running away with Ships, Ordnance, Ammunition, or Proviſion, or yielding the ſame up to an Enemy, Pirate, or Rebel, ſhall ſuffer Death.

XVII. All Sea Officers or Mariners that ſhall deſert the Service, or run away, or entice others ſo to do, ſhall be puniſh'd with Death.

XVIII. All Spies bringing any ſeducing Letters or Meſſages from any Enemy or Rebel, or attempting to corrupt any Officer, Seamen or other in the Fleet to betray his Truſt, or deſert to the Enemy, or Rebel, ſhall ſuffer Death.

XIX. No Perſon in the Fleet ſhall ſpeak Seditious or Mutinous Words, nor raiſe, or endeavour to raiſe, any Mutiny on any Pretence whatſoever, on Pain of Death.

XX. No Perſon in the Fleet ſhall conceal any Mutinous Practices, Deſigns, or Words; or Words ſpoken againſt the King or Government; or any Words, Practices, or Deſigns againſt the Service, but reveal them to his Superior, on Pain of Puniſhment by a Court Martial.

XXI. None ſhall quarrel with his Superior Officer on Pain of ſevere Puniſhment, nor ſtrike him, on Pain of Death, or otherwiſe, as a Court Martial ſhall think juſt.

XXII. If any of the Fleet find Cauſe of Complaint of the Badneſs of his Victuals, he ſhall quietly make it known to his Superiors, as Occaſion may deſerve; and his Superiors are preſently to remedy it; but no Perſon ſhall raiſe any Diſturbance on that Account, upon Pain of ſuch ſevere Puniſhment as the Court Martial ſhall inflict.

XXIII. None

XXIII. None ſhall quarrel or fight in a Ship; nor provoke any one to quarrel by ill Language, on Pain of Impriſonment, or other Puniſhment, in the Breaſt of a Court Martial.

XXIV. Powder, Shot, Ammunition, and the Ships Stores not to be waſted and imbezzl'd; Stores and Proviſions to be carefully preſerved, on ſuch Penalties and Puniſhments on the Offenders, Abettors, Buyers and Receivers, as a Court Martial ſhall think juſt to inflict.

XXV. Care to be taken in the Conducting and Steering of the Ships, that none of the King's Ships may be ſtranded or run upon any Rocks or Sands, or ſpilt or hazzarded, on Pain that ſuch as ſhall be found guilty therein, be puniſh'd by Fine, Impriſonment, or otherwiſe as the Court Martial think the Crime deſerves.

XXVI. All Perſons who ſhall wilfully burn or ſet Fire to any Ship, Magazine, or Store of Powder, or to any Ship, Boat, Ketch, Hoy, or Veſſel, or Tackle, or Furniture thereunto belonging, not appertaining to an Enemy or Rebel, ſhall ſuffer Death.

XXVII. No Man in the Fleet ſhall ſleep upon his Watch, or be negligent in the Performance of the Duty impos'd on him, or quit his Station, on Pain of Death or other Puniſhment, according to the Nature of the Offence.

XXVIII. Wilful Murders aboard Ship, puniſhable with Death.

XXIX. Robberies and Thefts aboard Ship, puniſhable with Death, or other Puniſhment, as the Court Martial ſhall think juſt.

XXX. No Provoſt Martial belonging to the Fleet ſhall refuſe to receive or keep any Priſoner committed to his Charge, nor ſuffer him to eſcape after he has had him in Cuſtody, nor diſmiſs him without Trial, on pain of ſuffering the ſame Puniſhment that ſhould have been inflicted on his Priſoner, or of being otherwiſe puniſhed by a Court Martial.

XXXI. All Officers and Seamen to do their utmoſt to diſcover, ſeize and bring to Puniſhment all Offenders, and to aſſiſt the Officers

cers appointed for that purpoſe, on Pain of being puniſh'd as a Court Martial ſhall think fit.

XXXII. Buggery and Sodomy puniſhable with Death aboard the Fleet.

XXXIII. All other Offences to be puniſh'd according to the Laws and Cuſtoms of the Sea.

XXXIV. Lord high Admiral impower'd to grant Commiſſions to Vice-Admirals or Commanders in Chief of any Squadron of Ships, to hold Courts Martial, conſiſting of Commanders and Captains. No Court Martial, where the Pains of Death ſhall be inflicted, to be leſs than five Captains at leaſt: The Admiral's Lieutenant to be reckon'd in this Caſe as a Captain. Sentence of Death paſt by Virtue of theſe Articles, not to be executed without the Lord High Admiral's Leave, if the Offence was committed in the Narrow Seas; if beyond them, Execution ſhall not be done but by Order of the Commander in Chief of that Fleet or Squadron wherein the Sentence paſt.

XXXV. The Judge Advocate authoriz'd to adminiſter an Oath to any Perſon or Witneſs, in Order to the Examination or Tryal of any of the Offences aforeſaid; and in his Abſence the Court Martial to appoint any Perſon to adminiſter an Oath to the aforeſaid Purpoſes.

This Act not to extend to give the Lord High Admiral, or his Vice-Admirals, Judge or Judges of the Admiralty, his or their Deputies, or any other Officers or Miniſters of the Admiralty, or any others having or claiming Admiral Power in the King's Dominions, any other Power, Right, Juriſdiction, Preheminence and Authority, than he or they lawfully had, or ought to have had, before the making this Act, other than for ſuch Offences ſpecify'd in the ſeveral Articles contain'd in it, or hereafter ſhall be done upon the Main Sea, or in Ships or Veſſels hovering in the main Stream of great Rivers only beneath the Bridges of the ſame Rivers nigh to the Sea within the Admiralty Juriſdiction, and committed only by ſuch Perſons as ſhall be actually in the King's Service and Pay aboard his Ships of War.

An Act paſt in the Seſſion of Parliament which began the 9th of November, 1703. *Entituled,* An Act for the Increaſe of Seamen, and better Encouragement of Navigation, and Security of the Coal Trade.

TWO or more Juſtices of the Peace, or Chief Magiſtrates of any Town Corporate, or Church-Wardens and Overſeers, with the Conſent of the Juſtices or Magiſtrates, may bind out any Poor Boy of 10 Years of Age, to the Sea Service, if he is chargeable, or if his Parents are chargeable to the Pariſh, or if he begs for Alms, ſuch Boy ſhall ſerve till 21 Years of Age; his Age to be mention'd in his Indentures, as taken from the Pariſh Regiſter, atteſted by the Miniſter: No Stamp to be requir'd for the Copy, nor Fee to be demanded. If no Entry be made in the Regiſter, two Juſtices of the Peace or Chief Magiſtrates of a Town to inform themſelves of ſuch Boy's Age, and inſert it in his Indentures; and it is to be taken as his true Age, without any further Proof.

The Church-Wardens or Overſeers, to pay 50 *s.* with ſuch Boy to his Maſter to buy him Neceſſaries: The Pariſh to allow it. Where more than one Village in a Pariſh, which has Church-Wardens and Overſeers, all to have equal Power in the Binding out Boys within their Reſpective Precincts. No ſuch Apprentice to be preſt into the Queen's Service, till he is 18 Years old.

The Church-Wardens and Overſeers to ſend the Boy's Indentures to the Collector of the Cuſtoms at the Port to which his Maſter belongs: The Collector to enter into a Book for that purpoſe, every ſuch Indenture ſo ſent to him, and ſign an Indorſement on the backſide, without Fee or Reward; and if any Collector neglects or refuſes to enter and indorſe ſuch Indenture, or makes falſe Entries, he ſhall forfeit 5 *l.* to the Uſe of the Poor of the Pariſh from whence the Boy was bound. Every Collector or his Deputy, to tranſmit the Names and Ages of every ſuch Apprentice, and to what Ship he belongs, to the Admiralty Office; and Protection ſhall from Time to Time be made, and given to ſuch Apprentices till they are 18 Years old, without Fee or Reward. No need of Stampt Paper for the Collector's Certificate.

Any

Any Perſon having a Pariſh Boy Apprentice by Virtue of any former Statute, may, with the Conſent of two Juſtices or Chief Magiſtrate of any Town Corporate where ſuch Boy was bound, aſſign over ſuch Poor Boy to any Maſter of a Ship, to ſerve him for the Remainder of his Apprenticeſhip: Which Aſſignment is to be regiſtred by the Collector of the Port to which the Maſter belongs, to whom the Poor Boy is bound, and tranſmitted by the ſaid Collector to the Office of Admiralty as aforeſaid; where Protections are to be granted on Certificates of ſuch Aſſignments, till ſuch Poor Boy is 18 Years old as aforeſaid.

All Boys ſo bound out, or ſo aſſign'd over to the Sea Service till they are 18 Years, ſhall be exempted from the Payment of 6 *d.* a Month to *Greenwich* Hoſpital, notwithſtanding any Act to the contrary. All Maſters of Ships of 30 Tuns to 50 Tuns, are oblig'd to take one ſuch Apprentice, and one more for the next 50 Tuns; and one more for each 100 Tuns ſuch Ship ſhall exceed 100 Tuns; and every Maſter that refuſes to take ſuch an Apprentice, ſhall forfeit 10 *l.* to the Uſe of the Poor of the Pariſh from whence ſuch Boy was bound.

Every Maſter of ſuch Apprentice, after his Arrival into any Port, or before he cleans out of ſuch Port, ſhall give an Account ſign'd by him to the Collector of the Port to which he belongs, of the Names and Number of ſuch Apprentices as then remain in his Service.

Every ſuch Apprentice ſhall from Time to Time be ſent to the Reſpective Port to which his Maſter belongs, by the Church-Wardens or Overſeers of the Poor of the Pariſh from whence ſuch Apprentice is bound, and the Charges to be in the ſame manner as in the Act made in King *William*'s Reign, Intituled, *An Act for the more effectual Puniſhment of Vagrants, and ſending them whither by Law they ought to be ſent.*

The Maſter of ſuch Apprentice ſhall ſeal the Counter-part of every ſuch Indenture in the Preſence of the Collector of the Port where ſuch Apprentice ſhall be bound, and the Conſtable or other Officer that brings him to be bound; which Conſtable or Officer ſhall convey the Counter-part of ſuch Indenture to the Church-Wardens and Overſeers of the Pariſh from whence ſuch Apprentice ſhall be bound, by the ſame way ſuch Apprentice was convey'd to the ſaid Port.

Two Neighbouring Juſtices of Peace of the County, and the Mayor and Chief Magiſtrates of any Town Corporate near ſuch Port, are impower'd to examine and determine all Complaints of hard Uſage from every ſuch Maſter to ſuch Apprentice ſo bound

or assign'd over, and of all such as have been, or shall be, voluntarily bound to the Sea Service; and to make such Orders as the Law enables them to do in other Cases between Masters and Apprentices.

Every Collector of a Port to keep a Register, containing the Number and Burthen of all Ships; as also the Masters and Owners Names, together with the Names of the Apprentices in each Ship, belonging to his Port, and from what Parishes such Apprentices were sent: A Copy of the Register sign'd by him, to be sent to the Quarter-Sessions or Town Corporate, as often as he shall be reasonably requir'd to do it, without Fee: To forfeit 5 *l.* if he refuses or neglects to send such Copy, for the Use of the Poor of the Parish from whence such Apprentice was bound.

Every Custom-House Officer at each Port, shall insert at the Bottom of their Cocquets, the Number of Men and Boys aboard each Ship at the going out of such Port, and there describe the Apprentices by their Names, Ages and the Dates of their several Indentures.

Every Apprentice who hath, or shall voluntarily put himself to the Sea Service, shall not be prest into her Majesty's Service within 3 Years from the Dates of their Respective Indentures, which Indentures are to be Register'd, and Certificates thereof sent by the Collector of each Port in which such Apprentices are bound, to the Office of Admiralty; their Protections are to be granted for the said 3 Years of their Apprenticeships without Fee.

All lewd and disorderly Men-Servants, and all Men and Boys that are deem'd Rogues, Vagabonds, and Sturdy Beggars, (not Felons) shall be taken up and convey'd into her Majesty's Service at Sea, by such ways as is directed for Vagrants by the beforemention'd Act of Parliament made in King *William*'s Reign.

When such Apprentices as aforesaid are 18 Years old, or have serv'd 3 Years, and by that are liable to be prest aboard Men of War; if they are so prest or voluntarily enter themselves into the Queen's Service, their Masters are notwithstanding to be entituled to their Wages as able Seamen, if they are found to be so upon Examination.

All the Penalties and Forfeitures directed by this Act, shall be levy'd by Distress and Sale of the Goods and Chattels of the Offender by Warrant, under the Hands and Seals of two Justices of the Peace of the same County or Town.

All Persons who shall serve at Sea, and become disabled, as also their Wives and Children, and the Widows and Children of Seamen slain, may be nominated to be provide for in *Greenwich* Hospita

Hoſpital, by the Lord Admiral, or Commiſſioners of the Admiralty, when any Vacancies happen.

All Colliers are allow'd, beſides the Maſter, Maſter's Mate, and Carpenter, to have one able Seamen for every 100 Tuns a Coal-Ship is in Burthen, provided it does not exceed 300 Tuns; every Ship to be gaged and meaſur'd, and a Certificate of its Burthen given at the Cuſtom-Houſe.

Any Sea Officer that ſhall preſs any Man exempted by this Act, ſhall forfeit to the Maſter of the Ship to whom he belongs 10 *l.* recoverable with Coſts of Suit, *&c.*

It will be further taken notice of in this Appendix, that the Act of Navigation has been diſpens'd with for the Encouragement of Privateers, with reſpect to the Number of Foreigners that may be employ'd aboard Engliſh *Ships, before which, in the Seſſion of Parliament laſt meation'd, there was a Clauſe in the Recruit-Act* for diſpencing with part of the Act for the Incouragement and Increaſe of Shipping during the preſent War, *which runs thus.*

" During the preſent War and no longer, the Number and Pro-
" portion of the Mariners to ſail in ſuch Ships or Veſſels, which
" by any Law now in Force are limitted to the Maſter and three
" Fourths of the Mariners to be *Engliſh*, ſhall be enlarged to the
" Maſter and one Moiety of the Mariners at leaſt, to be *Engliſh*;
" and that it ſhall, and may be lawful to and for the Owner or
" Owners of any ſuch Ship or Veſſel, to navigate the ſame with
" ſuch Mariners, whereof the Maſter and one Moiety of the Ma-
" riners, at leaſt, ſhall be *Engliſh*, without incurring any Penal-
" ty or Forfeiture for ſo doing; and without ſubjecting the
" Goods or Merchandize laden in ſuch Ship or Veſſel, to
" any other Cuſtoms, Duties, or Payments, than ſhould have
" been paid for the ſame in caſe the ſame Ships or Veſſels had
" been navigated by a Maſter and three Fourths of the Mariners
" been *Engliſh*."

In an Act paſt laſt Seſſion of Parliament, entituled, *An Act for the Incouragement of the Trade to* America, are ſeveral Clauſes for the Incouragement alſo of her Majeſty's Ships of War and Privateers, to annoy the Enemy in thoſe Parts; as particularly,

All Prize-Officers in any Port or Place in *America* were ſuppreſt.

All Flag-Officers, and other Officers and Seamen of every Ship or Veſſel of War, ſhall have all Ships and Veſſels, and all the

Goods and Merchandize they ſhall take in any Part of *America*, (being firſt condemn'd in the Admiralty Courts as lawful Prize, and paying the Cuſtoms as if the ſame had been firſt imported to any Part of *Great-Britain*, and from thence exported) to be divided in ſuch Proportion as her Majeſty ſhall think fit to order.

The Lord High Admiral, or Commiſſioners of the Admiralty, or any Perſons impower'd by them in *America*, are, if deſir'd, to grant Letters of Marque to any *Britiſh* Owners of Ships or Veſſels, for Perſons nominated by them to command ſuch Ship or Veſſel, for the attacking and taking any Ship or Veſſel belonging to any of her Majeſty's Enemies, in any Part of *America*, not within 100 Leagues of any Part of *Aſia* or *Africa*; the Trade whereof is granted to the *Eaſt-India*-Company; the Owners to give Bail and Security as uſual, unleſs for the Lord High Admiral's Tenths. All Ships, Veſſels, Arms, Ammunition, Stores of War, Furniture, Tackle, or Apparel, and all Goods and Merchandize whatſoever, taken by Privateers, being firſt condemn'd as Prize in the Admiralty Courts in *America*, and ſubject to Duties, in the like Caſe as the Men of War aforeſaid, to be divided among the Owners of the Privateers or private Ships of War, and the Officers and Seamen, and others who were aboard at the Time of, and aiding and aſſiſting to the taking of ſuch Prize, in ſuch Proportion as ſhall be agreed upon between the Owners or their Agents, and the Perſons entituled thereto by this Act; neither her Majeſty, nor the Lord High Admiral, nor any Perſon or Perſons whatſoever, to be entituled to any Share thereof, (the Queen's Cuſtoms being duly paid.)

For the more ſpeedy Condemnation of ſuch Ships and Goods ſo taken by Privateers or Men of War, and leſſening the Expence in ſuch Caſes, 'twas enacted, That the Judges of the Courts of Admiralty, or other Perſons thereto authoriz'd, ſhall, within 5 Days after Requeſt made to them, finiſh the uſual Preparatory Examination of the Perſons commonly examin'd in ſuch Caſes, in order to prove the Capture to be lawful Prize. The uſual Monition ſhall be iſſued and executed by the Perſons proper to iſſue and execute the ſame in the uſual Manner, within the Space of 3 Days, after Requeſt made to them; and in caſe no Claim of ſuch Capture be made in due Form, and atteſted upon Oath, giving 20 Days Notice after the Execution of ſuch Monition; or if there be full Claim, and the Claimants ſhall not within 5 Days give ſufficient Security (to be approv'd by ſuch Admiralty Court) to pay double Coſts to the Captors: In caſe the ſame ſo claim'd be adjudg'd lawful Prize, then the Judges of the Admiralty, ſhall upon

upon producing the ſaid Examination, or Copies thereof, and upon producing upon Oath all Writings taken with ſuch Capture, (or upon Oath made that no Writings were taken) without further Delay, proceed to Sentence, to diſcharge or condemn the ſaid Capture, as the Caſe appear'd to them after due Examination and Peruſal of the Writings, if any were found. If a Claim be duly enter'd, and Security given as aforeſaid, and there appears no Occaſion to examine any Witneſſes, other than what ſhall be then near ſuch Courts of Admiralty, then the Judges ſhall forthwith cauſe ſuch Witneſſes to be examin'd, and give Sentence within 10 Days after ſuch Claim made, and Security given. If the Caſe appears doubtful, whether ſuch Capture be lawful Prize or not, and 'tis neceſſary for the clearing ſuch Doubt to examine Witneſſes remote from ſuch Courts of Admiralty, and ſuch Examination be deſir'd, and the Captors ſtill inſiſt that the ſaid Capture is lawful Prize, and the Claimants ſtill perſiſt in the contrary, then the Judges of the Admiralty ſhall cauſe ſuch Capture to be apprized by Perſons nam'd on the Part of the Capture, and ſworn truly to appraiſe the ſame, according to the beſt of their Skill, and ſhall after ſuch Appraiſement, and within 14 Days after the making ſuch Claim, take good and ſufficient Security from the Claimants, to pay to the Captors the full Value thereof, according to ſuch Appraiſement, in caſe the ſame be adjudg'd lawful Prize; and after Security given, the ſaid Judges ſhall make an Interlocutory Order for delivering the ſame to the Claimants, or their Agents; and the ſame ſhall be accordingly deliver'd.

If any Claimant refuſe to give ſuch Security, the Judges ſhall cauſe the Captors to give good and ſufficient Security, to be approv'd of by the Claimants, to pay the ſaid Claimants the full Value, according to the Appraiſement, if the Capture be not adjudg'd lawful Prize; and then the Judges are to order the delivering of the ſame to the Captors, and it ſhall be accordingly delivered to them or their Agents.

All Captures brought into any of her Majeſty's Colonies in *America*, ſhall, without breaking Bulk, ſtay there, and be under the Joint Care of the Naval Officer of the Port or Place whereto they ſhall be brought, and of the Captors thereof, and their Agents, till the ſame be legally cleared, or condemned as Prize; or that ſuch Interlocutory Orders, as aforeſaid, are made for the releaſing, or the delivering of the ſame; and if the Captures were taken by Privateer Ships, the ſame ſhall, after Condemnation, be immediately deliver'd to the Captors thereof, and their Agents,

Agents, to be diſpos'd of by them as their Goods and Chattels: If taken by Men of War, to ſuch Perſons as aforeſaid, and to be divided as her Majeſty ſhall direct. If any Judge or Judges, or other Officer or Officers to whom it belongs, ſhall delay doing any of the ſeveral Proceedings relating to the condemning or diſcharging, releaſing or delivering of any ſuch Capture in manner aforeſaid, within the Reſpective Times before limited, or as ſoon as the ſame ought to be done, ſuch Judges and Officers ſhall forfeit 500 *l.* one half to the Queen, and the other half, with full Coſts of Suit, to ſuch Perſon or Perſons as ſhall inform, and ſue for the ſame in any of her Majeſty's Courts in *America* or *Great Britain*.

The ſaid Judges and Officers not to receive as Fees, for the condemning ſuch Capture, above the Sum of 10 *l.* if the Prize Ship be under 100 Tun; nor more than 15 *l.* if above; and upon the Payment of either of which Sums to the Judges, to be diſpos'd of as they ſhall think fit among the Officers of ſuch Courts, ſuch Judges and Officers ſhall be liable to all the Penalties impos'd by this Act, for neglecting or delaying to perform their ſeveral Duties relating to the ſeveral Proceedings aforeſaid, within the reſpective Times limited in this Act.

But if any Captors or Claimants ſhall not reſt ſatisfy'd with the Sentence of ſuch Courts of Admiralty, the Parties aggriev'd may appeal to her Majeſty in her Privy Council, at any Time within 14 Days after Sentence, and the Appellants muſt give good Security that they will effectually proſecute ſuch Appeal, and anſwer the Condemnation; as alſo pay Treble Coſts if the Sentence be confirmed, *and ſo as Execution be not ſuſpended by reaſon of any ſuch Appeal.*

No Mariner or other Perſon aboard any Privateer or Merchant Ship in *America*, nor any Mariner or other Perſon aſhoar in any Part thereof, ſhall be liable to be preſt for the Queen's Ships, unleſs ſuch Mariner ſhall have deſerted the Service before the 14th of *February*, 1707; and any Officer of her Majeſty's Ships who ſhall preſs any ſuch Mariner, ſhall forfeit to the Maſter or Owner, or Owners of the Ship to whom ſuch Mariner belongs, 20 *l.* and ſo for every Mariner ſo impreſt, with full Coſts, recoverable in any Court within her Majeſty's Dominions.

Every Maſter of a Merchant Ship, and every Captain of a Privateer, ſhall, before he ſhall entertain any Mariner, Seaman, or other Perſon, to ſerve aboard ſuch Privateer or Merchant Ship, endeavour, as much as in him lies, to diſcover if ſuch Mariner, Seaman, or other Perſon hath deſerted the Queen's Service. And

if

if any ſuch Captain or Maſter does not uſe ſuch Endeavours for ſuch Diſcovery, or ſhall know or be inform'd that ſuch Mariner, Seaman, or other Perſon has deſerred the Queen's Service, ſuch Captain or Maſter ſhall forfeit 20 *l.* to her Majeſty for every Man he ſhall ſo entertain.

Every Maſter of a Merchant Ship, and Commander of a Privateer, ſhall, before he ſails from any Port, deliver to the Chief Officer of the Cuſtoms in ſuch Port, an exact Liſt of all the Men belonging to ſuch Merchant Ship or Privateer, with their Names, Ages, and the Deſcriptions of their Perſon, on Pain of forfeiting 10 *l.* for every Man not inſerted in ſuch Liſt.

Such Officer of the Cuſtoms to return, to ſuch Maſter or Commander, an atteſted Copy of ſuch Liſt. On the Death or Alteration of any Seaman, the ſaid Liſt ſhall be immediately alter'd and deliver'd to the Naval Officer, or Chief Officer of the Cuſtoms in any Port where ſuch Merchant Ship or Privateer ſhall arrive: All which Liſts ſhall be ſhewn to any Commander of her Majeſty's Ships of War demanding the ſame; and if any Man belonging to her Majeſty's Ships of War, ſhall be found aboard any Merchant Ship, or Privateer, whoſe Name ſhall not be contain'd in ſuch Liſt; the Maſter or Commander of ſuch Veſſel ſhall forfeit 20 *l.* for every ſuch Man found aboard.

The Maſter of every Trading Ship and Packet-Boat bound for any Part of *America*, is oblig'd to carry any Number of Mariners, Seamen, or other Perſons, actually enter'd into her Majeſty's Pay (over and above the Complement of Mariners or Seamen which ſuch Ship or Packet-Boat uſually carries, not exceeding the Proportion of a fifth Part of the Number of ſuch uſual Complement) and ſhall deliver them to thoſe to whom they are aſſign'd by her Majeſty's Officers; and on Refuſal, to take them aboard, he or they ſhall forfeit 20 *l.* for every ſuch Seaman or Mariner.

Her Majeſty is impower'd, during the Continuance of the preſent War, to grant any Charter or Commiſſion for the better enabling any Society or particular Perſons, to join in any Expeditions by Sea and Land, for taking or deſtroying any Ships, Goods, Moveables or Immoveables, Settlements, Factories, Creeks, Harbours, Places of Strength, Land-Forts, Caſtles and Fortifications, poſſeſt by any of her Majeſt's Enemies in any Part of *America*; and to give ſuch Society, or particular Perſons, full Enjoyment of all ſuch Ships, Goods, Moveables and Immoveables, Settlements, *&c.* as their undoubted Rights; with and under ſuch Regulations as her Majeſty ſhall think fit (although the preſent War

ſhould

ſhould be then ended) and to corroborate the Premiſes by further Grants or Charters.

Nothing in this Act to reſtrain any of her Majeſty's Subjects from having a Free Trade to, and in any Part of *America*.

It ſhall not be lawful for any Commander of a Man of War, Privateer, or Merchant Ship, to offer any Violence, Spoil, or Moleſtation whatſoever, between *Rio Lahacha* and the River *Chagre*, on the *Spaniſh* Coaſt in *America*, or within 5 Leagues at Sea of any Port of that Shore, to any Sloop, Barcolongo, Conoa, or other Boat, Goods, or Merchandizes, belonging to any of the Subjects of *Spain* who trade with any of her Majeſty's Subjects, or to any Sloop, *&c.* belonging to any of her Majeſty's Subjects going to, or coming from any Port or Place within the Limits aforeſaid.

Contraband Goods, in an Act entituled, *An Act for Prohibiting all Trade and Commerce with* France, may be carry'd by her Majeſty's Subjects to any Port or Place within the Limits aforeſaid, to trade with the Subjects of *Spain* within the ſaid Limits.

The Laws in the *Weſt-Indies* relating to carrying off Servants and Slaves without the Conſent of the Owner, and others without Tickets from their Reſpective Secretaries Offices, to be in Force. And all Commanders of Private Ships of War, or Merchant Ships having Letters of Marque, are to be ſubject to ſuch Laws.

During the Continuance of this War, and no longer, 'tis lawful for any Privateer or Merchant Ship, to be navigated by Foreign Seamen, ſo as their Number do not exceed three Fourths of their Complement, and one Fourth at leaſt of the Mariners be Natives of *Great-Britain*, or her Majeſty's Naturalized Subjects, (ſudden Death, and the Hazzards of War and the Seas excepted.) Notwithſtanding the Act of Navigation, every Foreign Mariner having faithfully ſerv'd in a Man of War, Privateer, or Merchant Ship, 2 Years, ſhall be deem'd to be Naturalized, and enjoy all the Rights and Privileges of a Natural born Subject of *Great-Britain*.

Her Majeſty is impower'd to grant to any Perſon who ſhall be actually engag'd in any Adventure, in Purſuance of this Act, a Licence to buy, in Foreign Parts, any Ship or Ships, ſo as the whole Number do not exceed 20, Security being given, that ſuch Ship or Ships ſhall be employ'd in ſuch Adventures: And all ſuch Ships ſo bought, having been employ'd as Privateers during the War, ſhall be deem'd as, and have the Privileges of *Britiſh* Ships, notwithſtanding the Act of Navigation.

In

In the ſame Seſſions of Parliament there paſt an Act, in which there was a Clauſe for *Promoting the Conſumption of Tobacco that had paid her Majeſty's Duties*, to this Effect;

" No Commander of any of her Majeſty's Ships of War, or " Purſer thereof, ſhall deliver or cauſe to be ſold or deliver'd to " any of her Majeſty's Seamen or Mariners, any Tobacco of the " Growth of *Europe*, nor any Tobacco mix'd with Tobacco of " the ſaid Growth.

" All Tobacco to be us'd or conſum'd aboard any of her Ma- " jeſty's Ships of War, in any Part of *Europe*, ſhall be of the " Growth of the *Britiſh* Plantation, which has paid the full Du- " ties, and been manufactured in *England*. Every Commander, or " Purſer, who ſhall knowing and wilfully offend herein, ſhall for- " feit their reſpective Places or Employments; and 3 *s.* for eve- " ry Pound Weight of Tobacco ſo ſold and deliver'd, half to " the Queen, and half to the Informer.

In the ſame Seſſion paſs'd an Act, intituled, *An Act for the better ſecuring the Trade of this Kingdom by Convoys and Cruizers*; which being of great Benefit to her Majeſty's Subjects in the Sea Service, will be acceptable to the Reader in this Place.

Over and above the Line of Battel Ships, and Convoys for Remote Parts, 43 Men of War are to be employ'd as Cruizers in proper Stations, *viz.* 6 Third Rates, 20 Fourth Rates, 13 Fifth Rates, and 4 Sixth Rates, as the Lord High Admiral or Commiſſioners ſhall direct; 9 of which to cruize between the North Eaſt Coaſt of *Great Britain*; and 3 on the North Weſt Coaſt of *Great Britain*, in ſuch Station as the Lord High Admiral or Commiſſioners ſhall appoint: Theſe Men of War to be careen'd three times a Year at leaſt: The Seamen not to be turn'd over to any other Ship, if not a Cruizer. In caſe of great Neceſſity, theſe Cruizers may be employ'd in the Line of Battle on this ſide Cape *Finiſter*; otherwiſe to be always cruizing, except when they are careening or refitting.

The Lord High Admiral, or Commiſſioners, to appoint a Commiſſioner of the Navy, or ſome one or more Perſon or Perſons, who ſhall conſtantly reſide at ſuch Place or Places as her

Majeſty ſhall appoint; by Virtue of which Appointment, ſuch Perſon or Perſons ſhall ſuperviſe every thing relating to theſe Cruizers, and take Care that all Neceſſaries for them be immediately provided, when they come into Port through Streſs of Weather, or to careen and refit; and as ſoon as they are refitted, order them to Sea again.

The Commiſſioners of the Navy in each of the Out-Parts, or the Perſons employ'd for that Purpoſe, ſhall ſend up to the Admiralty, within 8 Days after the Meeting of every Seſſion of Parliament, a diſtinct Account, digeſted into proper Columns, of the Time when any one of theſe Cruizers ſail'd out of Port, when ſuch Ship came in, how many Days ſuch Ship was upon Duty, how many Times each of the ſaid Ships were careen'd, and where, every Year; the Reaſons of her putting into Port, and the Time and Reaſons of her Stay there: Which Account the Admiralty is to lay before the Parliament within 8 Days after the Meeting of every Seſſion.

The Lord High Admiral, or Commiſſioners, ſhall every Year, during the preſent War, between the 1*ſt* of *November* and the 1*ſt* of *December*, appoint the aforeſaid Number of Men of War, of the Rates afore-mentioned, to be Cruizers or Convoys on this Side Cape *Finiſter* for the Year enſuing; and as often as any of them ſhall happen to be taken, or otherwiſe loſt, another Man of War of the ſame Rate ſhall be appointed as ſoon as may be to ſupply its room.

If any Man of War, Privateer, Merchant Man, or other Veſſel, ſhall be taken as Prize by any Man of War, or Privateer, and condemn'd as Prize in the Courts of Admiralty, the Officers and Seamen who ſhall be actually aboard ſuch Man of War or Privateer that took the Prize, ſhall, after Condemnation, have the ſole Intereſt in it, without accounting further for it. Such Prize to be ſold by ſuch as the Officers of the Captor, or the Majority of them, ſhall under their Hands and Seals authorize ſo to do, and the whole Produce to be diſtributed among the ſaid Officers, Seamen and others, according to their reſpective Shares, as her Majeſty ſhall direct by Proclamation.

But if the Lord High Admiral, or Commiſſioners, ſhall think fit to take into her Majeſty's Service any ſuch Prize Ship, then the Ship and Furniture ſhall be appraiſed by Officers appointed by her Majeſty, or the Commiſſioners of the Navy, for that purpoſe; and alſo by the like Number of Perſons to be appointed for that purpoſe, by the major Part of the Commanders and Officers among the Captors of ſuch Prize: And on producing of ſuch Appraiſement, together with a Certificate of the Delivery of ſuch Man of War or Privateer ſo taken, with her Furniture, *&c.* to her Majeſty's Uſe, the Commiſſioners of the Navy ſhall, within 15 Days, make out Bills for paying the full Value of ſuch Appraiſement, according to the Courſe of the Navy, to be divided among the Captors, as aforeſaid.

Over and above the before-mentioned Encouragement, the Treaſurer of the Navy, upon Bills made forth by the Commiſſioners of the Navy, payable according to the Courſe thereof, ſhall pay without Fee or Reward to the Captors, whether Men of War or Privateers, 5 *l.* for every Man aboard the Prize that was living at the Beginning of the Engagement; the Number of ſuch Men to be prov'd by the Oath of 3 or more of the Chief Officers, or Men that belong to the Prize at the Time of her being taken, before the Mayor or Chief Magiſtrate of the Port whither ſuch Prize is brought. The Mayor or Chief Magiſtrate is requir'd to adminiſter ſuch Oath, and forthwith grant a Certificate thereof, without Fee or Reward; upon producing which Certificate, and a Copy of the Condemnation of the Prize, the Commiſſioners of the Navy ſhall, according to the Courſe of the Navy, within 15 Days, make out Bills for the Amount of ſuch Bounty, directed to the Treaſurer of the Navy, payable to the Captors, and to be divided among them, both Officers and Seamen, as her Majeſty ſhall direct by Proclamation for that purpoſe.

No Ships, Goods, or Merchandize, taken as Prize, to be exempted from Payment of Cuſtoms, or from being ſubject to ſuch Reſtrictions to which the ſame are, or may be, liable by the Laws of the Realm: Such Goods, when brought into Port, to be unloaden in the Preſence of the Cuſtom-Houſe-Officers for ſuch Port; and put into her Majeſty's Warehouſes, and

there lock'd up with 3 Locks; one Key to be kept by the Collectors of ſuch Port, one by the Comptroller, and one by the Agents for the Captors, till ſuch Goods can be appraiſed and ſold. The Captors may bring Appraiſers to view, appraiſe, and buy them at reaſonable Times, and when ſuch Goods are ſold, the Perſons buying them ſhall pay the Cuſtoms for them, and be furher liable to all ſuch Prohibitions as are, or may be made for ſuch Goods.

All Appraiſements, and Sales of Ships and Goods taken as Prize, to be made by Agents nominated in equal Numbers by the Captors, Officers and Seamen. If the Captain of the Captor appoints one or more Perſon or Perſons as his Agent, the other Officers, or the Majority of them, ſhall nominate the like Number, and the Ship's Company, or the major Part of them, the ſame Number to act for them.

After Sale of ſuch Prize, Notice ſhall be given by the Agents appointed, as aforeſaid, of the Day appointed for the Payment of the ſeveral Shares ſhall remain in the Hands of the Agents, either belonging to ſuch Men as ſhall die, or run from the Service, or ſuch as ſhall not legally be demanded within 3 Years, the Shares, ſo remaining in the Agents Hands to go to *Greenwich* Hoſpital. The Bills made out, as well for the Value of the Prizes taken into her Majeſty's Service, as for the Bounty Money aforeſaid, ſhall be made payable to the Agents appointed by the Captain, the Majority of the Officers, and the major Part of the Ship's Company, to be diſtributed among them, as aforeſaid; if not legally demanded within 3 Years, to go to *Greenwich* Hoſpital.

If any Officer, or Seamen, ſhall break Bulk, or imbezzle any of the Goods, Merchandize, Tackle, Furniture, or Apparel, belonging to ſuch Prize; ſuch Officer, or Seamen, ſhall forfeit treble the Value of all ſuch Goods, *&c.* ſo imbezzl'd; one Third to *Greenwich* Hoſpital, the other two Thirds to the Informer.

Pur-

Purſuant to this Act, Her Majeſty puts forth a Proclamation, *Appointing the Diſtribution of Prizes taken, and the Bounty for taking Ships of War, or Privateers of the Enemy's,*

Ordering and directing, That the Neat Proceed of all Prizes, and Bounty Money for Priſoners taken, be divided into eight equal Parts; whereof the Captain of the Man of War who ſhall be actually on board at the taking of the Prize, ſhall be allow'd three Eighths; of which one Eighth ſhall go to a Flag-Officer, if actually on board. To the Marine Captains, Sea Lieutenants, and Maſter, ſhall be allow'd one Eighth, to be equally divided among them. The Marine Lieutenants, Boatſwain, Gunner, Purſer, Carpenter, Maſter's Mate, Surgeon's and Chaplain, one Eighth, to be equally divided among them. The Midſhip-men, Carpenter's Mates, Boatſwain's Mates, Gunner's Mates, Corporal's Mates, Yeoman of the Sheets, Coxſwain, Quarter-Maſter, Quarter-Maſter's Mates, Surgeons Mates, Yeoman of the Powder-Room, and Serjeants of Marines, one Eighth, to be equally divided among them. The Trumpeters, Quarter-Gunners, Carpenter's Crew, Steward, Cook, Armourer, Steward's Mate, Cook's Mate, Gunſmith, Cooper, Swabber, ordinary Trumpeter, Barber, able Seamen, ordinary Seamen, Volunteers by Letter, and Marine Soldiers, two Eighth Parts, to be equally divied among them.

Every Captain of a Man of War taking any Prize, is enjoyn'd as ſoon as may be, to tranſmit to the Navy-Board, a true Liſt of the Names of all the Officers, Seamen, and others who were actually on board ſuch Ship of War under his Command, at the taking ſuch Prize; which Liſt is to contain the Number of each Perſon as he ſtands on the Ship's Book, and the Quality of his Service, ſign'd by the Captain, and 3 or more of the Chief Officers.

In Caſe any Sea Captain, Inferiour Commiſſion, or Warrant Sea Officers, belonging to any Ship of War, for whom any Shares of Prizes are allowed, be abſent at the Time of the Capture of the Prize; the Share of ſuch Sea Captain, &c. ſhall be caſt into the Shares allow'd to the Trumpeter, Quarter-Gunner, Carpenter's Crew, Steward, Cook, Armourer, Steward's

ard's Mate, Cook's Mate, Gunſmith, Cooper, Swabber, ordinary Trumpeter, Barber, able Seamen, ordinary Seamen, Volunteers by Letter, and Marine Soldiers, to be equally divided among them.

The Commiſſioners of the Navy are requir'd, after Condemnation of the Prize, to examine ſuch Liſt by the Muſter-Book of the Man of War, and ſee that ſuch Liſt agrees with it, as to the Names, Qualities, or Ratings of the Officers, Seamen, and others belonging to ſuch Ship of War; and upon Requeſt, to grant forthwith a Certificate of the Truth of any Liſt tranſmitted to them to the Agents nominated by the Captors; and alſo upon Application to them, to give the ſaid Agents all ſuch Liſts from the Muſter-Book of any Ships of War, as the ſaid Agents ſhall find requiſite for their Direction in paying the Produce of ſuch Prizes, or the Bounty Money, when due; and to be otherwiſe aiding and aſſiſting to the ſaid Agents as ſhall be neceſſary.

And in regard Privateers are ſet forth and mann'd at the Charges of the particular Owners thereof, who make Agreements with their Seamen what Shares and Proportion each Man on board ſuch Privateer ſhall have of any Prize which ſhall be taken; and it will not be reaſonable, that any Seaman, or Perſon on board ſuch Privateer, ſhould be entituled to any thing, otherwiſe than according to the particular Agreements he ſhall have ſigned to ſuch Owner, all ſuch Contracts and Agreements enter'd into upon the putting forth any Letter of Marque Ship, are ratify'd and confirm'd, and are to be as valid in Law, as if mention'd in this Proclamation.

The Agents appointed to make Sales of the Prizes, ſhall give Notice of the Day and Place which they appoint for the Payment of the ſeveral Shares to the Captors, in the *London Gazette*, that the Notification relating to the three Years within which the Shares to be demanded, or to go to *Greenwich* Hoſpital, may be aſcertain'd. And that the Governours of that Hoſpital may know who are the Agents employ'd to receive and pay the ſeveral Shares of ſuch Perſons as were on board the Ships that took any Prizes, ſo as to demand the Share of ſuch of the Captors who ſhall die, or run from the Service,

vice, or ſhall not legally make their Demand within the 3 Years, a true Liſt of the Agents, for the Purpoſes aforeſaid, ſhall be forthwith certified to the Governours of the ſaid Hoſpital by the Court of Admiralty; which, upon Delivery of any Prize Ship, is requir'd to take an Account of the Names of ſuch Perſons as are appointed Agents by the Captors.

In the foregoing Pages mention has been made of Letters of Marque granted to Mr. *George Carew*, and others againſt the *Dutch*: What follows is a Proclamation for the revoking the ſaid Letters of Marque, that the Reader may ſee all the Steps that are to be taken in ſuch an Affair. 'Tis printed in the *Gazette* of *Auguſt* 30, 1680.

WHereas George Carew, *Eſq*; *had formerly granted to him Letters of Marque againſt the States General of the United Provinces, for a Satisfaction of a certain Demand which Sir* William Courteen, *and others, had againſt the ſaid States; and to which the ſaid* George Carew *was intituled; which ſaid Demand has ſince, by Treaty of Peace between his Majeſty and the ſaid States, been totally aboliſh'd and extinguiſh'd, and all Letters of Marque and Reprizal by the ſame Treaty, diſcharg'd accordingly, And whereas his Majeſty has ſince recalled and ſuperſeded the ſaid Letters of Marque, to the end that no Perſon may be miſled, under Pretence of any Letters of Marque heretofore granted to the ſaid* George Carew, *and thereby incur the Danger of the Law, as Pyrates: His Majeſty is pleaſed, by this his Proclamation, to declare, that the ſaid* George Carew *has now no Authority and Commiſſion, by Virtue of any ſuch Letters of Marque, to equip or ſet out any Veſſel whatſoever; and that all Perſons that ſhall preſume to be aiding to him in ſetting forth any ſuch Ship, or ſerve under him by Colour of any ſuch pretended Authority, ſhall be proceeded againſt as Pyrates, according to the utmoſt Severity of the Law.*

What

What remains to be added to this Appendix, is the Proclamation about Colours, in Purſuance to the firſt Article of the Treaty of Union between *England* and *Scotland*: 'Tis entituled, *A Proclamation, declaring what Enſign or Colours ſhall be Born at Sea in Merchant Ships, or Veſſels belonging to any of her Majeſty Subjects of* Great Britain, *and the Dominions thereunto belonging*; and requires as follows:

WHereas by the firſt Article of the Treaty of *Union*, &c. It was provided and agreed, That the Enſigns Armorial of our Kingdom of *Great Britain* be ſuch as we ſhould appoint, and the Croſſes of Saint *George* and Saint *Andrew* conjoin'd in ſuch manner as we ſhould think fit, and uſed in all Flags, *&c.* both at Sea and Land; We have therefore thought fit, by and with the Advice of our Privy-Council, to order and appoint the Enſign deſcribed hereafter, to be worn on Board all Ships or Veſſels belonging to any of our Subjects whatſoever. And whereas divers of our Subjects; have preſumed on Board their Ships to Wear our Flags, Jacks, and Pendants, which, according to ancient Uſage, have been appointed as a Diſtinction for our Ships, and many times thinking to evade the Puniſhment due for the ſame, have Worn Flags, Jacks and Pendants, in Shape and Mixture of Colours ſo little different from ours, as not without Difficulty to be diſtinguiſh'd therefrom, which Practice hath been found attended with manifold Inconveniencies: For the Prevention of the ſame for the future, we do, *&c.* hereby ſtrictly Charge and Command all our Subjects whatſoever, That they do not preſume to Wear in any of their Ships, or Veſſels, our Jack, commonly call'd the *Union-Jack*, nor any Pendants, nor any ſuch Colours as are uſually Born by our Ships, without particular Warrant for their ſo doing from us, or our High Admiral of *Great Britain*, or the Commiſſioners for Executing the Office of High Admiral, for the Time being: Not to wear on Board their Ships or Veſſels, any Flags, Jacks, Pendants, or Colours made in Imitation of Ours, or any kind of Pendant whatſoever, or any

any other Enſign than the Enſign deſcrib'd here, which ſhall be worn inſtead of the Enſign before this Time uſually worn in Merchant-Ships: Saving that for the better Diſtinction of



ſuch Ships as ſhall have Commiſſions of Letters of Mart or Reprizals againſt the Enemy, and any other Ships or Veſſels

which may be employed by the Principal Officers and Commiſſioners of Our Navy, the Principal Officers of Our Ordnance, the Commiſſioners for Victualling Our Navy, the Commiſſioners for Our Cuſtoms, and the Commiſſioners for Tranſportation for Our Service, relating particularly to thoſe Offices, Our Royal Will and Pleaſure is, That all ſuch Ships as have Commiſſions of Letters of Mart or Reprizals, ſhall, beſides the Colours or Enſign hereby appointed to be worn by Merchant-Ships, wear a Red Jack with a Union-Jack deſcrib'd in a Canton at the upper Corner thereof next the Staff; and that ſuch Ships and Veſſels as ſhall be employ'd for Our Service by the Officers aforeſaid, relating particularly to thoſe Offices, ſhall wear a Red Jack with a Union-Jack in a Canton at the upper Corner thereof next the Staff, as aforeſaid; and in the other Part of the ſaid Jack ſhall be deſcrib'd the Seal uſed in ſuch of the reſpective Offices aforeſaid, by which the ſaid Ships and Veſſels ſhall be employ'd. And we do ſtrictly charge and command, That none of Our loving Subjects do preſume to wear any of the ſaid Diſtinction-Jacks, unleſs they ſhall have Commiſſions of Letters of Mart or Reprizals, or be employed in Our Service by any of the ſaid before-mentioned Offices. And We hereby require Our High Admiral, and Commiſſioners for Executing the Office of High Admiral, the Governours of Our Forts and Caſtles, the Officers of Our Cuſtoms, and the Commanders or Officers of any of Our Ships, for the Time being, upon their Meeting with, or otherwiſe Obſerving any Ships or Veſſels belonging to any of Our Subjects, neglecting to wear the Enſign hereby appointed to be born, as aforeſaid, or wearing any Flag, Pendant, Jack, or Enſign, contrary hereunto, whether at Sea, or in Port, not only to ſeize, or cauſe any ſuch Flag, *&c.* worn contrary to our Royal Will and Pleaſure herein expreſſed, to be forthwith ſeized, but alſo to return the Names of ſuch Ships and Veſſels neglecting to wear the Enſign hereby appointed, or wearing any Flag, *&c.* contrary hereunto, together with the Names of their reſpective Maſters or Commanders, unto Our High Admiral, or Commiſſioners for executing the Office of High Admiral, or the Judge of Our High Court of Admiralty for the Time being, to the end all Perſons offending may be duly puniſhed for the ſame. And we do hereby command and enjoin the Judge and Judges of Our High Court of Admiralty for the Time being, That they

they make ſtrict Enquiry concerning all ſuch Offenders, and cauſe them to be duly puniſh'd; and all Vice-Admirals and Judges of the Vice-Admiralties, are hereby alſo required to proceed in the like manner within the ſeveral Ports and Places belonging to their reſpective Precincts.

FINIS.



FH
MVSEVM
BRITANNICVM